
7/22/99 - pro tem Judge PHILIP J. HALL -
 CV 322327 - DREGSETH (Lawrence Edwin
 Condit, a sole practitioner) v COBB (David R.
 Curl of William B. Blaser & Associates) -
 PERSONAL INJURY - REAREND. Plntf,
 female, a beautician, was westbound, on free-
 way, at 7:45 A.M., on April 16, 1997, on the
 way to her grandmother's funeral, in Coolidge,
 when she was rear-ended by Dfnt, whom, she
 alleged, was travelling twenty-miles-per-hour at
 the time of impact. Dfnt, female, alleged she
 was travelling behind Plntf, in stop-and-go
 traffic, was distracted by men working, along
 the roadway, and, by the time she looked back,
 Plntf had stopped. Dfnt alleged that, after the
 collision, Plntf advised Dfnt she was not injured.
 Plntf was involved in a subsequent accident, on
 June 23, 1997, when a vehicle ran a red light
 and collided with the side of Plntf's vehicle.
 Plntf was involved in an additional accident, on
 December 24, 1997, in her employer's parking
 lot. Plntf alleged she sustained two herniated
 disks, in the instant accident, plus a concussion,
 which resulted in post-concussion headaches and
 residual pain. Plntf used the deposition of
 Randall S. Prust, M.D., specializing in pain

control, who testified that, when he first saw Plntf, in July, 1997, she presented with headaches, which he attributed to post-concussion headaches. Dr. Prust treated Plntf with pain injections and believed three or four more injections, at a cost of approximately \$4,000, would leave Plntf pain-free. Plntf used deposition of Gary A. Love, D.C., who opined the June 23, 1997, accident caused an aggravation of Plntf's condition, for approximately one week, and the December 24, 1997, accident resulted in a minor aggravation. It was also Dr. Love's opinion Plntf's severe headaches, neck, and back pain, masked the pain from the herniated disks. Dfnt read portion of Dr. Love's deposition, wherein Dr. Love stated Plntf had no disk herniations, when he treated her, in 1997. It was Dr. Love's opinion the two herniated disks diagnosed in 1998 were unrelated to the instant accident. Plntf called Scott C. Forrer, M.D., a neurologist, who testified the herniated disks were causally related and Plntf had evidence of radiating pain, when she saw her chiropractor, on April 21, 1997, and when she saw another physician, on May 7, 1997. It was Dr. Forrer's opinion the MRIs, the EMG, and the NCV tests performed were reasonable and necessary. Further, it was Dr. Forrer's opinion Plntf also had myofascial pain syndrome, as well as disk herniations. It was also Dr. Forrer's opinion the June 23, 1997, and December 24, 1997, accidents aggravated Plntf's herniated disks, only slightly. Dr. Forrer also testified he referred Plntf to Ronald A. Bernstein, M.D., a neurosurgeon, for a surgical opinion, and Dr. Prust for pain management. Dr. Forrer agreed Plntf did not develop post-concussion headaches because she had not sustained a concussion. On cross, Dr. Forrer admitted it was the opinion of Dr. Bernstein that the herniation appeared to be an osteophyte, rather than a herniation, and Dr. Bernstein did not believe Plntf was a surgical candidate. Additionally, on cross, Dr. Forrer admitted Dr. Bernstein disagreed with Dr. Prust regarding the necessity for injections, and disagreed with Dr. Love who stated there was no

herniation in 1997. Plntf alleged she lost approximately two months of work, and lost \$4,000 by selling her sick time, vacation time, and borrowing from her employer. However, on cross, Dfnt established, via Plntf's diary, she documented only three days lost work for the three months post-accident. Thereafter, Plntf dropped her wage loss claim. Dfnt argued Plntf continued to work twelve-plus hours-per-day, from the date of the accident, and her diary also showed she went to Nascar races in October, Nebraska in November, and Mexico in December, 1997. Dfnt called John S. LaWall, M.D., a neurologist, who opined Plntf had sustained a cervical strain and the chiropractic care of Dr. Love was reasonable and necessary. It was Dr. LaWall's opinion there was no way to tell, with any degree of medical certainty, whether the herniations were the result of the instant accident, preexisted the accident, or occurred subsequently. Further, Dr. LaWall testified, studies have shown that twenty to twenty-five percent of the populace has asymptomatic herniations. Additionally, it was Dr. LaWall's opinion, Plntf could not have developed post-concussion headaches because she did not sustain a concussion. On cross, Dr. LaWall admitted independent medical examinations represent approximately forty percent of his practice. Dr. LaWall also stated he sends patients to Dr. Love, and has found Dr. Love to be careful and capable of diagnosing herniated disk symptoms. Dr. LaWall also opined Plntf required no surgery as a result of the instant accident. Court agreed to instruct jury that accidents on June 23, 1997, and December 24, 1997, could be held as non-parties at fault. Prayer: Just and reasonable compensatory damages; \$17,898.86 past medical expenses; \$4,000 future medical expenses; plus \$4,000 lost wage claim (withdrawn). Plntf made a pretrial demand of \$35,000 - Dfnt made a \$4,000 offer of judgment (D). (Carrier: State Farm Insurance.) Three day trial. Jury out one hour. FOUND FOR DFNT. UNANIMOUSLY.