

1/14/16 - Judge ROBERT H. OBERBILLIG - CV 2013-094583 - CARDINALE (Michael V. Moldoveanu of Zanes Law) v RUIZ (JC C. Patrascioiu and David L. Curl of Curl & Glasson, P.L.C.) - PERSONAL INJURY - REAREND. *Case being tried on Dfnt's appeal of Plntf's \$40,914.93 arbitration award.* Plntf, female, age 64, a counselor, alleged she was rear-ended by Dfnt. Plntf called Marty Fuentes, an accident reconstructionist, who was of the opinion that Dfnt's expert inappropriately used data downloaded from the airbag control module in Dfnt's vehicle, as such data is unreliable to determine impact speed or Delta V forces. It was also Mr. Fuentes' opinion that Dfnt's expert's opinion that the impact speed was likely less than five miles per hour was unreliable since there was bumper damage, and an impact under five miles per hour would/should not cause damage. Dfnt, female, age 20, a clerical worker, admitted negligence, but argued causation. Dfnt called Robert D. Anderson, M.S., an accident reconstructionist and biomechanist,

who was of the opinion that the impact speed was approximately three-and-one-half miles per hour, and the Delta V forces generated were approximately two-and-one-half miles per hour. Plntf alleged she sustained cervical, thoracic, and lumbar soft tissue injuries. Plntf used the videotape deposition of her treating physician, Scott E. Weary, D.C., who was of the opinion that all of Plntf's injuries were causally related, and the chiropractic treatment for seven months was reasonable and necessary. Plntf also used the videotape deposition of her treating physician, Bennet E. Davis, M.D., a pain management specialist, who was of the opinion that Plntf sustained an injury to the facet block at C-5, C-6, which required a nerve rhizotomy. Dfnt argued Plntf had a history of cervical, thoracic, and lumbar pain, which was related to ongoing preexistent respiratory issues such as asthma and bronchitis. Dfnt used the deposition of Brian M. Zukowski, P.T. Prayer: Just and reasonable compensatory damages; plus \$18,651.69 medical expenses. Plntf made a \$25,000 pretrial offer

of judgment - Dfnt made a \$1,500 offer of judgment (D). (Carrier: State Farm Insurance.) During closing arguments, Plntf's counsel asked jury to award Plntf her medical expenses. Defense counsel argued Plntf was not injured. Three day trial. Jury out less than one hour. FOUND FOR DFNT. UNANIMOUSLY.
