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Woman demands over \$2 million from jury for vehicle collision, only awarded \$690K

VEHICLE NEGLIGENCE

Motor Vehicle v. Motor Vehicle/Truck

SAN DIEGO COUNTY SUPERIOR COURT

Howell v. Hamilton Meats & Provisions Inc., Docket number: GIN053925, Vista. Judge: Adrienne A. Orfield. Trial type: Jury; 6 days. Verdict/Judgment date: 2/6/2008.

VERDICT: \$690,000

The only issue to be determined by the jury was how much pain and suffering plaintiff was entitled to recover for three past surgeries and a lifetime of limited activities and pain, including the need for future surgery. Plaintiff's counsel asked the jury to award pain and suffering damages in a range over \$2 million. Defendants' counsel argued for \$100,000 in closing.

\$340,000 medical; \$350,000 general.

Defendants filed a post-trial motion to reduce medical specials by approximately \$130,000 pursuant to *Hanif*. Plaintiff hired attorney John Rice to argue the *Hanif* motion. The motion was granted, and a final judgment, including costs and interest, was issued in the amount of \$598,233. Plaintiff appealed the decision; the results of the appeal were unknown. Vote: Not reported. Deliberations: 4.5 hours.

COUNSEL

Plaintiff: J. Jude Basile, Basile Law Firm, San Luis Obispo.

Defendant: Robert F. Tyson Jr., Tyson & Mendes, La Jolla. Mark Peterson, Tyson & Mendes, La Jolla.

FACTS/CONTENTIONS

According to defendant: Plaintiff Rebecca Howell, a 47-year-old semi-professional surfer and housewife, and defendant Mick Hamilton, age 48 and third-generation owner of defendant Hamilton Meats & Provisions Inc., were involved in a collision in November 2005. Plaintiff was driving a Ford Explorer and defendant was driving a delivery truck.

Defendants Mick Hamilton, Hamilton Meats & Provisions Inc., Dion International Trucks LLC, and Juan Saenz admitted liability, causation, and damages. Defendants further admitted they caused plaintiff pain and suffering.

CLAIMED INJURIES

According to defendant: Plaintiff underwent anterior neck surgery in January 2006 to fuse her C4-C6 vertebrae. Plaintiff underwent a second posterior neck fusion surgery for her C4-C6 vertebrae in November 2006, which included a bone graft extraction from her hip. Plaintiff also underwent a third surgery to relieve complications on the bone harvest site in August 2007. Plaintiff was advised she would need a fourth surgery, a neck fusion, in the future.

CLAIMED DAMAGES

According to defendant: Defendants did not dispute plaintiff was entitled to recover \$340,000 in past and future economic damages. Plaintiff sought over \$2 million in non-economic damages. The defense argued for \$100,000 in closing.

SETTLEMENT DISCUSSIONS

According to defendant: Demand: \$999,000, the lowest pre-trial demand; Offer: although plaintiff refused to accept the insurance policy limits of \$1 million once trial began, defendants offered \$500,000 during trial. Defendants were advised by the judge that the verdict could be over \$1 million.

EXPERTS

Plaintiff: Timothy A. Peppers, M.D., orthopedic surgeon, San Dieguito Orthopaedic Medical Group, Encinitas (760) 943-6700. Robert Stephenson, M.D., internist, Encinitas (760) 943-6730.

Defendant: None.

EXPERT TESTIMONY

According to defendant: Defendants had no experts testify at trial.

COMMENTS

According to defendant: Defendants called no witnesses and offered no evidence, and argued themes of responsibility and reasonableness.

The insurance carrier for defendant was Financial Indemnity Company; the adjuster was Ben Russell.

Defendants cited that the reason for the jury's decision was due to defendants' acceptance of responsibility for their actions and the damages they caused to plaintiff. Also, defendants cited that defendants' counsel read to the jury, during closing arguments, Lou Gehrig's farewell address at Yankee Stadium on July 4, 1939.