

# TRIALS DIGEST<sup>®</sup>

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**SETTLEMENT RESULT: \$780,000**

## VEHICLE NEGLIGENCE

**49 TD 13TH 25**

### Stopped vehicle rear-ended by pickup

#### VEHICLE NEGLIGENCE

Motor Vehicle v. Motor Vehicle/Rear-End/Parked/Stalled/Stopped Vehicle

#### No COURT/UNFILED SETTLEMENT

*Leopold v. Lund Cadillac*, Trial type: Settlement. Settlement date: 3/8/2009.

**SETTLEMENT: \$780,000**

#### COUNSEL

**Plaintiff:** Scott J. Corwin, A Professional Law Corporation, Los Angeles.

**Defendant:** Brian Mark, Zurich Insurance Company, Overland Park, KS.

#### FACTS/CONTENTIONS

According to plaintiff: On January 22, 2007, plaintiff Mortimer Leopold, a 77-year-old retired rancher, was driving his 2007 BMW northbound on US 93 near Wickenburg, Arizona. Plaintiff had come to a stop waiting to make a left turn onto a small road. Defendant, driving a 2004 Chevrolet one-ton pickup northbound on US 93, struck plaintiff's vehicle from the rear. Plaintiff's vehicle was totaled. Plaintiff alleged that defendant was negligent in the operation of a motor vehicle and that all of plaintiff's claimed injuries were a direct result of the subject motor vehicle accident.

Defendant accepted liability, but disputed the nature and extent of plaintiff's claimed injuries. In particular, defendant denied that plaintiff suffered a traumatic brain injury. Defendant contended that plaintiff had suffered a stroke approximately one year prior to the subject accident and that post-stroke, pre-accident brain MRI studies, when compared to post-subject motor vehicle accident MRI

studies, showed no significant imaging changes in the brain.

#### CLAIMED INJURIES

According to plaintiff: Plaintiff was taken from the scene by helicopter to the hospital. The paramedics determined plaintiff's Glasgow coma scale score was an 8 at the scene of the accident. Plaintiff sustained injuries to his neck, shoulders, and lower back and a cervical herniated disc. He also sustained a traumatic brain injury as evidenced by a brain MRI demonstrating axonal shear injury and some minor loss of neurologic functioning as demonstrated on neuropsychological testing. Plaintiff made a very good recovery after three weeks of hospitalization and rehabilitation.

Following the subject accident, plaintiff introduced into evidence records from his primary care physician that showed that prior to the subject accident, plaintiff was in an excellent state of physical and mental health. Plaintiff's primary care physician indicated that following the subject accident he noticed a change in plaintiff's mental state.

#### CLAIMED DAMAGES

According to plaintiff: \$131,392 past medical; \$487,555 future medical (life care plan).

#### SETTLEMENT DISCUSSIONS

According to plaintiff: Plaintiff initially demanded \$2,300,000, which was lowered to \$1,100,000. Defendant initially offered \$300,000.

#### EXPERTS

None.

Trials Digest, a Thomson Reuters business, 425 Market Street, 4th Floor, San Francisco, CA 94105  
415-344-6000 (ph) 415-344-4950 (fax) trialsdigest@thomson.com west.thomson.com/trialsdigest/