

S99-11-11

Auto v. Auto: Driver on Wrong Side of Road**Settlement:****\$1,000,000****Plaintiff Attorneys:** Lawrence R. Booth & Johnna J. Hansen
(Booth & Koskoff), Torrance**(310) 515-1361****Defendant Attorney:** Confidential**Insurance Co.:** Self-insured**Court:** Riverside**Mediator:** Lawrence Waddington (Ret.)**Date:** 6/30/99**Case:** Confidential**Facts:**

10/12/97: Plaintiffs, a 42-year-old caregiver and a 52-year-old unemployed general contractor, were struck head on by a rented vehicle driven by a person from Ireland who was in traveling in California in the course and scope of his employment for an American company. The Irish driver made a left turn at a T-intersection and, forgetting that he was in the United States, turned onto the wrong side of the road directly into the path of Plaintiffs' vehicle. There was an issue as to whether Plaintiffs were belted because of the nature of their injuries.

At the time of the accident, Plaintiff driver was providing care to Plaintiff passenger's quadriplegic son through an arrangement with the State of California earning \$20,000/year. She had not worked for many years as a computer programmer, although she contended that as a computer programmers, especially during the Y2K situation, she would have had substantial future loss of earnings. Plaintiff passenger had not worked as a general contractor of some time due to the quadriplegic injuries to his son. At the time of the accident he was utilizing certain unimproved property for farming. He estimated his loss of earnings based on a combination of his inability to farm and inability to perform as a general contractor.

Injuries: Driver: Multiple pelvic fractures; transverse fracture of the right acetabulum; intertrochanteric fracture of pelvis; right open tibia fracture; multiple comminuted fractures of fibula in both legs; closed head trauma with right blowout orbital fracture of right eye. Passenger: Multiple pelvic fractures; rib fractures; probable fracture of coccyx; forehead laceration forehead with fairly large visible scar. **Treatment:** Driver: Hospitalized for 2½ months for multiple surgeries to legs/pelvis. Passenger: Traction with lengthy hospitalization. **Residuals:** Driver: Limp and deformed foot. Passenger: Hip pain.

Medical Costs: Driver: \$167,000 past (unpaid because there was no medical insurance); \$150,000 future. Passenger: \$121,000 past; \$10,000 future.

Loss of Earnings: Driver: \$100,000; Passenger: \$200,000

Contentions:

Plaintiff claimed that although Defendant was responsible for the accident, Plaintiff driver was governed by the provisions of Proposition 213 because she was the owner of the vehicle and there was no automobile insurance. Hence her recovery was limited to medical expenses and loss of earnings.

Defendant argued that Plaintiff driver's loss of earnings were highly speculative. Plaintiff's estimate of \$150,000 in future medicals was excessive. With respect to the passenger Plaintiff, his loss of earnings and profits from both contracting and farming were highly speculative. As to both Plaintiffs, defense argued a seat belt defense.

Negotiations:

1st Offer: \$500,000, gradually increased

1st Demand: \$2,000,000

Settlement:

\$1,000,000: \$400,000 to driver; \$600,000 to passenger.

Note:

Hon. Waddington (Ret.) of JAMS/ENDISPUTE was mediator for this case, filed on 5/22/98.

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