

Defendant Not Negligent in Crash

Arpineh Babakhanian (Associate/Los Angeles). A garden variety rear-end accident which occurred on April 26, 2004 in the city of Lancaster. Our client, was stopped behind plaintiff intending to turn left at an intersection. The light turned green, plaintiff completed her turn and defendant followed behind her. As plaintiff completed her turn she approached a railroad crossing about 30 feet away when the lights and whistles for the crossing engaged. She stopped abruptly and defendant, hit his brakes immediately but slid into the rear of her vehicle. The property damage to plaintiff's vehicle was about \$750 dollars. She took one month off work as a bus driver for Valley School District, claiming \$2,000 in lost earnings. She also sought medical treatment at Kaiser and AV Spinal Care, in the amount of \$2,700. To date, she was claiming problems and pain with her right shoulder, despite the fact that she had not treated in nearly five years!

The matter proceeded to a jury trial and lasted a short two days. The plaintiff's case in chief consisted of plaintiff's own testimony and the defendant's testimony. Plaintiff chose not to call any of her treating physicians or any other designated experts. The defense relied solely on the testimony of the defendant. In closing arguments, plaintiff asked for approximately \$50,000 of damages which consisted of her loss of earnings, medicals and \$15,000 for past pain and suffering and \$30,000 for future pain and suffering. Defendant asked the jury to find that he was not negligent however if they were so inclined to find him negligent, then to not award her any damages as this minor impact could not have possibly caused her any injury. After 15 minutes of deliberations, the jury returned with a 10-2 defense verdict that defendant was not negligent in the operation of his vehicle. The jury did not even have to reach the issue of causation – whether the defendant's conduct was a substantial factor in causing plaintiff's injuries. In settlement negotiations, the defense had offered \$2,500 to plaintiff. Plaintiff's last offer was in the amount of \$9,999. Subsequently, in speaking with the jury, they explained that their decision was made easy because of the strength of the arguments that the defense made in discrediting plaintiff's recollection of her medical treatment, the costs associated with the treatment and the lack of an explanation for how such a small impact could have allegedly caused such long-standing medical injuries.