

NUECES COUNTY

MOTOR VEHICLE

Rear-End — Truck — Passenger — Intersection

Couple injured in rear-ender while stopped at stoplight

VERDICT **\$2,500**
ACTUAL **\$12,151**

CASE Jesus Carillo and Hilma Carillo v. Juan Carlos Garza, No. 07-60927-1
COURT Nueces County Court at Law No. 1, TX
JUDGE Robert Vargas
DATE 10/29/2008

PLAINTIFF
ATTORNEY(S) Michael R. De La Paz, San Antonio, TX

DEFENSE
ATTORNEY(S) Robert E. Holcomb, Dietz & Associates, Edinburg, TX

FACTS & ALLEGATIONS On May 6, 2005, plaintiff Jesus Carillo, 60s, a make-ready worker at a car dealer, was driving a pickup in Robstown. His wife, plaintiff Hilma Carillo, 59, a teachers' aide, was a passenger. They were stopped at a light, waiting to turn left onto Avenue J, when Juan Carlos Garza rear-ended them. Garza was driving a full-size sedan. The Carillos claimed they were injured in the accident.

The Carillos sued Garza, alleging negligent operation of a motor vehicle.

Garza stipulated to liability.

INJURIES/DAMAGES *back and neck; chiropractic; lower back; shoulder; strains and sprains; torn rotator cuff; wrist*

The vehicles were driven from the scene by the parties. The plaintiffs provided two repair estimates for the pickup, one for \$916.47 and one for \$393.23. Police gave a damage rating of "1" for the pickup and none for the car.

Jesus Carillo claimed neck, back and wrist sprains and strains and a torn rotator cuff. Hilma Carillo claimed sprains and strains to her neck, shoulders and lower back.

Hilma Carillo refused treatment at the scene, but a friend took her to the emergency room the next day. She then underwent a month of physical therapy. After a four-month gap, she underwent one or two months of chiropractic care. She also underwent X-rays. According to defense counsel, she underwent an MRI, but according to the plaintiffs' counsel, she did not. Her past medical bills were \$6,413.18.

Jesus Carillo underwent some orthopedic consultations. He also underwent trigger point injections to his shoulder and neck, as well as an MRI. According to defense counsel, he underwent about two months of chiropractic care; according to the plaintiffs' attorney, he underwent no chiropractic care as a result of this accident. Past medical bills of \$8,964.44 came into evidence, but the plaintiffs' attorney said that only \$2,767.65 was related to the accident, and that he only asked for that much.

According to defense counsel, surgery was recommended for Jesus Carillo's shoulder; according to the plaintiffs' counsel, surgery was not recommended.

Both plaintiffs also claimed past and future physical pain, mental anguish, and physical impairment. He and she said they could not do yardwork and housework, respectively, as easily as they used to.

The defense argued that the impact was minor and that the medical expenses were excessive for the injuries. The defense argued that any injury, treatment, or pain and suffering was not due to the accident, but rather to disease, natural causes, infirmity, or preexisting or subsequent conditions or injuries.

Garza's medical expert said that \$6,222.53 in medical bills for Hilma Carillo was reasonable and necessary, and the court

SOUTH / WEST

granted a directed verdict awarding her that amount for past medical.

RESULT The jury found that Hilma Carillo's damages were \$1,000, all for past pain and suffering, and that Jesus Carillo's damages were \$1,500, all for past medical expenses. With the addition of the directed verdict on Hilma Carillo's medical expenses, prejudgment interest and taxable costs, the plaintiffs' recovery was \$12,151.24.

HILMA CARILLO \$1,000 past pain and suffering
\$6,223 past medical costs (directed verdict)
 \$7,223

JESUS CARILLO \$1,500 past medical cost

DEMAND \$38,000
OFFER \$1,000

INSURER(S) Fred Loya Insurance

TRIAL DETAILS Trial Length: 3 days
 Trial Deliberations: 2 hours
 Jury Vote: 6-0
 Jury Composition: 4 male, 2 female

PLAINTIFF
EXPERT(S) None reported

DEFENSE
EXPERT(S) William E. Swan Jr., M.D., orthopedic surgery, Corpus Christi, TX
 Adelino Yung, BSME, biomechanical, Houston, TX

EDITOR'S NOTE This report is based on information that was provided by plaintiffs' counsel and defense counsel.

—John Schneider

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