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Defendant admits fender bender; jury awards plaintiffs 1/10th of demand

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A San Diego jury awarded only \$12,100 of a plaintiff's \$1.3 million demand in a fender bender trial that went forward after the defendant apologized, offered to cover all the medical expenses, accepted full responsibility for the collision, and the only injuries were soft tissue damage.

The plaintiff's attorney, Omid Rejali of San Diego, said he is drafting a motion for a new trial.

"We always try to let the jury know where we're coming from, as soon as we're able to, what we think of the case," Senior Counsel Robert Kahn of Tyson & Mendes LLP said Tuesday, explaining Monday's defense victory. "As soon as jury selection started, and as soon as the judge would allow, we gave a number, and the

number we gave was \$10,400. We thought \$10,400 was a fair and reasonable number given the property damage, and the evidence that we believe showed that the plaintiff improved and got better with treatment after the accident. The plaintiff's counsel was saying that the plaintiffs had some serious medical issues that would need future care, and that's where a lot of their numbers came from. We didn't see it that way."

"The jury appreciated that our client accepted full responsibility for a low speed accident which caused the soft tissue injuries," said Tyson & Mendes Senior Counsel Robert Olson, who argued the case at trial.

"We asked for economic damages of \$4,600 and noneconomic damages of \$5,800. By accepting responsibility, giving a defense anchor number, and arguing noneconomic damages, the defense showed

the jury a rational, common sense-based outcome for this trial. The jury then returned a verdict in our favor, awarding economic damages \$4,600 and noneconomic damages of \$7,500."

The case involved a collision caused by a Tyson & Mendes client who bumped into the plaintiff's vehicle during rush hour traffic. "It was determined that both cars were traveling at less than 10 miles per hour, and that damage to the vehicles consisted of a few scratches and cracks," said Olson. *Ishkanyan v. Stringer*, 37-2018-00063507-CU-PA-CTL (S.D. Super. Ct., filed Dec. 17, 2018).

One plaintiff continued to experience back and neck pain after the accident and was referred to a chiropractor, who testified that the condition had improved significantly. After a 19-month gap in treatment, her lawyers sent her to an orthopedic surgeon, who took an

MRI and diagnosed her with a herniated disc in her neck, and testified that it was caused by the accident.

"The evidence showed that during the same time frame that the plaintiff's expert discovered the herniated disc, which was basically two years after the accident happened, during that time period the plaintiff was also regularly participating at a local gym in the San Diego area where all the gym was focused on doing I believe was high intensity boot camp style training," Kahn said in a phone interview. "It didn't seem to us that the plaintiff's life had changed much, if at all based on what they were claiming the accident did."

"We were able to prove that the injuries sustained were minimal, highlighting that the disc herniation was not caused by this minor accident," Olson said.

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