DISTRICT COURT

Hert v. Haney and Rupp, Yellowstone DV 99-197, 2/12/2002

VERDICT: Defense, parking lot collision, back/neck/ headache exacerbation.

A Billings jury found that Helen Haney and Carl Rupp were both negligent but not a cause of Timothy Hert's damages in connection with a collision in the West K-Mart parking lot in Billings in 9/97.

Hert, 41, was a passenger in the Rupp vehicle. He sued both Rupp and Haney alleging negligence and claiming exacerbation of mid-back, low-back, neck, and headache conditions. He had been in 2 prior auto accidents in 1995 and had continued to complain of symptoms in these areas as late as 4/97.

He treated with Richard Nelson who opined that he had a "slightly larger" herniation at T7-8 when comparing the 1995 and 1997 MRI films. Steven Rizzolo and Patrick Cahill opined that the MRIs were identical. Nelson found sprain/strain of the neck, mid-back, and low-back. Cahill found no physical or neurologic problem and testified that none of his problems was attributable to the 5/97 accident.

John Jurist testified that statistically the occupants would have experienced at most transient muscle soreness. Defendants argued that no injury occurred or if it did it was a sprain/strain that would have resolved after weeks.

Plaintiff's Experts: Neurologist Richard Nelson, Billings (deposed); Economist Scott Harris, MSU-B.

Defendant Haney's Experts: Biophysicist John Jurist, Billings ; Neurologist Patrick Cahill, Billings (deposed).

Demand, $25,000; original offer, $1,500, final offer, $7,500. Jury request, $90,000; jury suggestion, 0 or a few hundred dollars.

Mediator: Brad Anderson.

Jury deliberated 1½ hours 2nd day; Judge Watters.

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David Duke (Duke Law Firm), Billings , for Hert; Randall Nelson (Nelson Law Firm), Billings , for Haney (State Farm Ins.); Dwaine Roybal (Roybal & Lee), Billings , for Rupp (State Farm Ins.).