

SETTLEMENT REPORT
Hillsborough County Circuit Court
Florida

Matthew D. Powell, Esq.
Attorney for Plaintiff
V S
EMC Insurance Company

The claim of the Plaintiff, against the Defendant, was filed in Hillsborough County Circuit Court before the Honorable Judge Claudia Isom. Judge Isom Ordered the parties to mediation in an effort to resolve the case prior to the November 26, 2007 trial date.

The Plaintiff had been injured in a rear end car crash in Tampa Florida on June 2, 2006.

Prior to the trial, Plaintiff was offered \$35,000.00 in settlement.

The Defense contended that the pain was attributable to pre-existing conditions. All the injuries were "soft tissue" injuries that would heal by themselves.

The Plaintiff's Attorney and expert witnesses (John Postlethwaite, D.C., Scott Rosa, D.C., A.O. and Manuel Rose, M.D.) presented objective evidence which clearly showed that her spinal instability was caused by the crash, and that her pre-existing degenerative disc disease was relatively asymptomatic before the accident.

Defendant:	EMC Insurance Company
Original Defense Settlement Offered:	\$35,000.00
Verdict at Mediation:	For the Plaintiff, 8/27/07
Settlement Awarded:	\$750,000.00
Critical Evidence:	Digital Motion X-Ray
Digital Motion X-Ray Performed By:	Marcus Johnson, DC
Digital Motion X-Ray Interpretation By:	John Postlethwaite, DC

SETTLEMENT REPORT
Hillsborough County Circuit Court Florida

**JURY AWARDS \$440,000.00 BASED ON OBJECTIVE EVIDENCE
PROVIDED BY DIGITAL MOTION X-RAY**

Matthew Powell Esq.
Attorney for Plaintiff
V S

Allstate Insurance Company UM Policy, and State Farm Insurance Company for BCI Engineering

The claim of the Plaintiff, against the Defendant, was tried in Hillsborough County Circuit Court before a jury.

The Plaintiff had been injured in two separate car accidents. The first accident occurred July 15, 2003, where the Plaintiff was rear ended and suffered cervical injuries. This case was against the Plaintiff's UM carrier, Allstate Insurance Company, who believed that since \$10,000.00 was recovered from the bad driver, and \$15,000.00 was received from Allstate in the form of PIP and Med Pay, that there were no permanent injuries, and that the recovered amounts were more than enough.

On November 1, 2005, the Plaintiff was rear ended a second time by an BCI Engineering employee. The second defense team claimed that the Plaintiff had pre-existing injuries (from the first crash) and that the second crash was so minor, that there was no way that there could be any injury with such a minor impact.

Prior to the trial, Plaintiff was offered \$4,500.00 from Allstate, and \$16,000.00 from BCI Engineering as a settlement.

The Defense contended that the pain was attributable to the Plaintiff being a hard worker (he waxed cars for a living) and the pain was strictly from the first crash, or maybe caused by spina bifida, which was never proven, or childhood accidents were the cause of constant headaches, neck pain, and shoulder pain.

The Plaintiff's Attorney and expert witnesses (Dr. Scott Rosa, D.C., Dr. Dr. Richard Pfaff, D.C. Dr. Charles Vickers, D.C.) presented objective evidence with DMX which demonstrated that there was ligament instability in the cervical spine, and the Ligamentum Flavum was damaged in the second crash, that dentate ligaments which were supposed to hold the spinal cord and brain stem in their proper position could no longer maintain the normal anatomy, and that this was the cause of the constant headaches, neck pain and shoulder pain. They opined that based upon the objective evidence, and comparing the DMX studies done in-between the two accidents, and the subsequent studies, that the Plaintiff had indeed suffered a permanent injury in the first crash, and it was aggravated by the second crash.

At the conclusion of the proof, the jury delivered a verdict on the issues of liability, causation, and permanency in favor of the Plaintiff and awarded the amount of \$205,000.00 against Allstate Insurance Company for the Plaintiff UM benefits (which was \$180,000.00 over the policy limits) and they awarded \$235,000.00 against BCI for the second accident.

Summary:

Type of Action:	Claim for Injuries following 2 rear end motor vehicle accidents.
Defendant #1:	Allstate Insurance Company
Original Defense Settlement Offered:	\$4,500.00
Verdict by Jury:	For the Plaintiff, November 8, 2007
Jury Settlement Awarded:	\$205,000.00
Defendant #2:	State Farm Insurance Company
Original Defense Settlement Offered:	\$16,000.00
Verdict by Jury:	For the Plaintiff, November 8, 2007
Jury Settlement Awarded:	\$235,000.00
Critical Evidence:	Digital Motion X-Ray
2003 Digital Motion X-Ray Performed By:	Nu-Best Whiplash Injury Center, Inc.
2003 Digital Motion X-Ray Interpretation By:	John Postlethwaite, D.C.
2007 Digital Motion X-Ray Performed By:	Nu-Best Whiplash Injury Center, Inc.
2007 Digital Motion X-Ray Interpretation By:	John Postlethwaite, D.C.
TOTAL AWARD AGAINST ALLSTATE AND STATE FARM	\$440,000.00

DMX CRITICAL EVIDENCE OF LOW SPEED SOFT TISSUE CASE RESULTING IN \$64,240 VERDICT

JURY VERDICT AWARD PINELLAS COUNTY, FLORIDA

In Pinellas County, Florida a jury awarded a 62 year old woman \$64,240.00 in a low speed, rear impact, soft tissue injury case. The plaintiff was driving an undetermined speed, but most likely about 1-2 m.p.h. in a parking lot while looking for a parking spot. The Defendant struck her car from the rear at an undetermined speed, but most likely about 5-7 m.p.h. (idle speed in most cars). Each car sustained less than \$1,000.00 of property damage.

The patient's symptoms, common with most post whiplash injuries, included headaches, posterior neck pain, pain in the upper back and shoulders and pain with certain neck movements.

Allstate classified this injury as their typical MIST case, Minor Impact Soft Tissue injury. They offered only \$800.00 to settle the claim pre-suit.

The plaintiff's lawyer, Robert Sharbaugh, filed suit and served an offer of judgment for \$6,000.00 as soon as the Rules of Procedure allowed. At mediation prior to trial the Allstate adjuster and staff counsel told the Plaintiff Allstate would never pay her more than \$2,000.00 or 3,000.00 for a case like this.

In preparation for trial, so the jury would have an objective image of his client's cervical ligament injuries, Mr. Sharbaugh had his client examined by Digital Motion X-Ray (DMX), performed and interpreted by Dr. John Postlethwaite. The results revealed an anterior avulsion fracture at C5, and damage to the posterior and anterior longitudinal, capsular and alar ligaments. Dr. Postlethwaite's testimony at the trial included his explanation of the DMX and his findings, and that according to the AMA Guidelines to Permanent Impairment ligament injuries result in an automatic permanent impairment rating. Dr. Postlethwaite projected the DMX image on a ten-foot movie screen so the jurors could easily see the patient's permanent ligament injuries.

During the second day of trial Allstate offered \$10,000.00 to settle the case. Counselor Sharbaugh and his client passed on the offer. At the conclusion of the trial the jury returned a verdict for the Plaintiff in the amount of \$64,240.00. In addition, because the Plaintiff's earlier proposal for settlement was not accepted, Allstate is subject to payment of additional damages for the Plaintiff's attorneys fees.


Attorney Sharbaugh believes that the DMX and Dr. Postlethwaite's testimony were critical evidence that influenced the outcome of the trial.

Summary:

Type of Action:	Auto negligence, rear end low speed impact resulting in soft tissue injuries/minor vehicular damage
Defendant:	Allstate
Venue:	Circuit Court of the 6th Judicial Circuit, Pinellas County
Verdict Awarded:	\$64,240.00 and pending Motion for Plaintiff's Attorney's Fees
Critical Evidence:	Digital Motion X-ray (DMX) and testimony of Dr. John Postlethwaite

**JURY AWARDS \$620,000 BASED ON OBJECTIVE EVIDENCE
PROVIDED BY DIGITAL MOTION X-RAY**

**SETTLEMENT REPORT
Jacksonville, Florida**

Eric S.  ESQ
Attorney for Plaintiff
V S
Nationwide Insurance

The claim of the Plaintiff, against the Defendant, was tried in Jacksonville, Florida before a jury.

The Plaintiff had been injured in an automobile accident.

Prior to the trial, Nationwide's best offer was \$45,000, and their best offer at trial was \$100,000.

The Plaintiff's Attorney and expert witnesses Ronald Brodtkin, DC presented the DMX study which demonstrated ligamentous injuries related in the automobile accident.

At the conclusion of the proof, the jury delivered a verdict in favor of the Plaintiff and awarded the amount of \$620,000.

Summary:

Type of Action:	Claim for Injuries following an automobile accident
Defendant:	Nationwide
Original Defense Settlement Offered:	\$45,000 before trial \$100,000 at trial
Verdict by Jury:	For the Plaintiff, April 2007
Jury Settlement Awarded:	\$620,000
Critical Evidence:	Digital Motion X-Ray



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May 2, 2007

Ronald Brodtkin, D.C.
1640 NW Boca Raton Blvd.
Boca Raton, FL 33432

RE: [REDACTED]
Palm Beach County, Florida

Dear Dr. Brodtkin:

On behalf of my client, [REDACTED], I would like to sincerely thank and compliment you regarding our recent \$620,000.00 verdict. Without your testimony at trial, I am certain we would not have been able to reach such a successful verdict. As an experienced trial lawyer, I can honestly say that your presence was crucial at [REDACTED]'s trial.

As you know, [REDACTED] is truly seriously injured and Nationwide refused to compensate her for those injuries. Considering Nationwide's best offer before trial was only \$45,000.00, and their best offer at trial was \$100,000.00, it is clear that your trial testimony was most beneficial to our case. [REDACTED]'s DMX study was a substantial part of her claim and I am thankful that you understood how much your testimony would affect [REDACTED]'s chance at trial. I also want to thank you for your patience and effort during our trial preparation.

I look forward to working with you again in the near future.

With kind regards, I am and remain,

Yours very truly,

A handwritten signature in black ink, appearing to read "Eric S. Block", written in a cursive style.

Eric S. Block

ESB/jm

\$1.7 MILLION JURY AWARD AFTER DMX CONFIRMS LIGAMENTOUS INJURY

VERDICT REPORT Minnehaha County, South Dakota

Stuart Jenson with
Brett Merkle / Tom Metier, Esq.
Attorneys for Plaintiff
VS.
State Steel Company Insured by CNA Insurance

The patient was injured in a head-on motor vehicle accident with both vehicles traveling at 60 MPH. The patient suffered from head (brain), neck (ligamentous), upper and lower back injuries.

Patient's headaches persisted with no change since the accident in spite of previous physical therapy, rhinotomy surgery, multiple medications daily, numerous MRIs, Brain Scan, CAT Scan, PET Scan and x-rays. The patient's medical bills totaled approximately \$44,000.

DMX revealed five (5) torn ligaments in the upper cervical spine: interspinous ligament, posterior longitudinal ligament, alar ligament and accessory ligament. Dr. Allen Unruh, DC demonstrated the patient's Digital Motion X-Ray by projecting it on a large screen to the jury.

At mediation, CNA offered the Plaintiff \$62,500 to settle. On the courthouse steps just before the beginning of the trial, CNA offered \$850,000 to settle out of court. In this Circuit Court case of State Steel Company vs. Stuart Jensen, the jury awarded the Plaintiff \$1.7 million.

SUMMARY

Type of Action:	Claim for Injures following a Personal Injury Auto Accident
Defendant:	State Steel Company Insured by CNA Insurance
Verdict:	Jury Verdict Minnehaha County Circuit Court
Verdict Awarded:	\$1.7 million
Critical Evidence:	Digital Motion X-Ray



**SETTLEMENT INCREASES FROM \$45,000 to \$245,000
AFTER DIGITAL MOTION X-RAY PROVES LIGAMENT INJURY**

San Bernardino Superior Court, California

Female Plaintiff was injured when an approaching utility truck driver fell asleep at the wheel, crossing into oncoming traffic and striking plaintiff's car. There was minimal property damage to plaintiff's vehicle.

Complicating the case was the fact that plaintiff had a pre-existing MS condition in which defendant's doctors claimed was responsible for the majority of the symptoms. Plaintiff's doctor claimed that while the MS may have been somewhat aggravated, the true nature of the injury was caused by ligament injuries from the force of the impact.

A Digital Motion X-Ray of the cervical spine was ordered and showed the existence of ligament injuries at C1-C2 and C4-C5 of over 5mm, thus providing evidence of spinal instability.

Plaintiff attorney Alexander Gelman was able to have the settlement of \$45,000 that was offered prior to the Digital Motion X-Ray rose to \$245,000 after demonstrating the existence of spinal instability and the permanency of the injuries.

Summary:

Type of Action: Claim for
injuries following a Utility
Personal Injury Auto Accident
Defendant: Company

Attorney for Plaintiff: Alexander Gelman, Esq.
1745 W. Orangewood Avenue
Orange, CA 92868

Settlement Prior to Digital Motion X-Ray: \$45,000

Settlement AFTER Digital Motion X-Ray: \$245,000

**SETTLEMENT INCREASED FROM
\$ 10,000. TO \$ 52,600.**

El Dorado Superior Court, CA

In Re: Taylor vs. Conk

Plaintiff was broadsided at 40 mph by a Ford Expedition. The patient had complains of headaches, neck pain, upper back and extremity pain. The treatment rendered consisted of 4 month of Chiropractic and 26th visits. The plaintiff underwent 3 years of treatment with Kaiser, consisting of TENS, Acupuncture, Acupressure, and Physical Therapy trigger point injections.

Summary:

Type of Action:	Claim for Injuries following Personal Injury Auto Accident
Injuries Sustained:	Significant Connective Tissue damage, Facet Joint injury
Defendant:	Mercury Insurance Company
Original Settlement Offered Plaintiff:	\$10,000.00
Settlement Verdict by the jury after viewing DMX:	\$ 52,600.00 plus addition fees and costs were awarded to Plaintiff's Counsel
Attorney for Plaintiff:	Travis Black, Esq.
Plaintiff's Experts:	Chuck Davis, DC, and Patrick Henry, MD Dr. Gatterman, DC, DCR
Judge:	Wagoner
Critical Evidence:	Digital Motion X-ray performed by Patrick Walborn, DC
Additional Evidence:	Two prior negative cervical MRI's