

MTLA CASE REPORT

Court Case No.: 69-C8-01-300098

Name of Case: Melissa Yuenger vs. Western National

Court: St. Louis County District Court, Hibbing

Date of Verdict: November 29, 2001

Legal issue or holding: Negligence

Description of Case: Plaintiff is a 21 year old student who was injured in an automobile accident in Wisconsin in November of 1998 during a winter storm when the highway was snow covered and the driver lost control of his vehicle, striking another. In this accident she suffered a fractured left humerus. The injury was placed in a cast and went on to heal. However, a bony prominence grew over the fracture site and one year after the accident her orthopaedic surgeon operated to remove the excess bone. Plaintiff has a four inch scar from the surgery, has full range of motion, but has occasional neuralgia (pain) from the surgical site. Plaintiff is an excellent athlete and entered college that fall with the hope of participating in track. This accident occurred the day before the first day of track practice.

Plaintiff had incurred \$11,800 in medical expenses, all of which have been paid by her carrier, Western National. She had received the full amount of coverage available from the driver's company, the sum of \$24,000. She then made an underinsured motorist claim against Western National.

Western National claimed that the accident was unavoidable and further that the plaintiff had already received full compensation with her prior settlement.

Plaintiff's expert: Dr. Leo Hise, orthopaedic surgeon

Defense expert: Dr. Jack Droght, orthopaedic surgeon

Demand: \$20,000 (new money)

Offer: \$15,000 (new money)

Verdict: The jury returned a verdict 18 minutes after walking out of the courtroom, finding negligence and awarding Plaintiff \$152,800, which will be offset by the previous settlement and no-fault payments made, and limited by available UIM coverage.

Judge: Jeffry Rantala

Defense attorney: N/A

Insurance company: Western National

Submitting attorney: Darrold E. Persson, Matonich & Persson, Hibbing, Minnesota