

Sani v. Harker continued — Santa Clara County

Settlement talks: Arbitration award of \$37,500 was rejected by both parties.
Demand \$100,000 C.C.P. 998, lowered to \$60,000, then further lowered to \$45,000. Offer \$20,000 C.C.P. 998.

Result: PLAINTIFF VERDICT \$15,111 (economic damages).
PLAINTIFF VERDICT \$3,000 (noneconomic damages). 11-1
Motion for new trial not made.
Defendant filed a cost bill for \$5,764, because the verdict was less than the statutory offer. Resolution of costs was then negotiated, with defendant paying \$14,200 to plaintiff in full satisfaction of jury verdict and all claimed costs. February 1, 1996

Solano County Superior Courts

Timothy Sparkman v. Stephanie Simpson

Number: L-002832

Plaintiff Attorney: Vincent M. Spohn, Napa
Defendant Attorney: McNamara, Houston, Dodge, McClure and Ney, Fairfield, by Guy D. Borges

Plaintiff Medical: John C. Kofoed, M.D. (Orthopedist) Vacaville/Fairfield—treating
Defendant Medical: Charles B. Clark, M.D. (Hand Surgeon) Roseville

Trial Judge: Hon. Michael L. McInnis—retired, sitting pro tem

MOTORCYCLE/AUTO COLLISION

May 4, 1993, plaintiff, a 27-year-old auto body painter/repairman, was injured while riding his motorcycle on a residential street in Vacaville when defendant made an unsafe U-turn in front of him. Plaintiff's motorcycle struck the driver's side of defendant's auto, with plaintiff's hand and arm breaking through the side window. Plaintiff's motorcycle was totalled and defendant's auto sustained damages of \$4,225.

Plaintiff attorney took over the case after the initial trial date when plaintiff's first attorney substituted out.

Plaintiff contended that defendant made an illegal and unsafe U-turn in front of him.

Defendant admitted that she made an unsafe U-turn, but contended that plaintiff was contributorily negligent because he was speeding.

Plaintiff attorney asked the jury to award specials plus \$59,397 for pain and suffering.

Defense attorney asked the jury to award reasonable specials and \$2,000 for pain and suffering.

Jury out four hours after a five-day trial.

Injuries: Plaintiff initially complained of injuries to his right, minor, hand, left foot and leg, and chest; that his primary complaints related to his hand, which he claimed was essential in his work as a journeyman auto body painter and refinisher; and that plaintiff was ultimately diagnosed as suffering from soft tissue injuries in the form of tenosynovitis, and sprains/strains of the hand.

Sparkman v. Simpson continued — Solano County

- Injuries continued:** Plaintiff claimed continued pain and use limitations of the right hand. Defense attorney reports that plaintiff's treating orthopedist issued successive disability slips covering a period of one year; that thereafter, the doctor's records reflected that he suggested that plaintiff should attempt to return to work at his regular occupation; that the records reflected that plaintiff disagreed with the doctor, and he was told he should obtain a second opinion, but that Dr. Kofoed would not change his opinion; that plaintiff stopped treating with Dr. Kofoed and never resumed treatment thereafter; that he continued to remain off work for over two years; that although he claimed that his injuries prevented him from returning to his regular occupation, he made little or no effort to obtain other work; that a sub rosa videotape depicted plaintiff doing automotive repairs on his own vehicle; and that both plaintiff's and defendant's doctors testified that plaintiff's injured hand showed signs of heavy use in the form of callouses.
- Dr. Clark testified that all objective diagnostic testing was negative for any fractures or other significant soft tissue injuries.
- Specials:** Medical \$2,767. Wage loss \$60,000+, out of which plaintiff reduced his claim for state disability and unemployment benefits received.
- Settlement talks:** Prior to litigation, defendant's insurer offered \$25,000, with \$2,500 paid as an advance on lost income.
Demand \$74,500, with an indication of a willingness to settle for less. Offer \$7,501 (new money) C.C.P. 998, withdrawn before trial.
- Result:** **PLAINTIFF VERDICT \$6,227.** **Various Polls**
Motion for new trial made by plaintiff—denied.
Defendant filed a cost bill for \$14,008, which was pending as of date of publication. **February 2, 1996**

CENTRAL CALIFORNIA COUNTIES**Kern County Superior Courts**Buttonwillow Warehouse, Inc. v. Leroy SandersCross-Complaint: Leroy Sanders v. Buttonwillow Warehouse, Inc.

Number: 226947

Plaintiff Attorney: Noriega and Alexander, Bakersfield, by Craig A. Edmonston—and as cross-defendant**Defendant Attorney:** Borton, Petrini and Conron, Fresno, by Dale M. Dorfmeier—and as cross-complainant**Plaintiff Expert:** Norman D. Ronemus (Agronomist) Fresno**Defendant Expert:** John E. Marcroft (Agronomist) Salinas
Dave Smith (Agronomist) Fresno