

Nelson & Dahle, P.C.

316 North 26th Street Billings, Montana 59101 p: 406.867.7000

DISTRICT COURT

Chavez v. Archibeque, Yellowstone DV 97-217, 9/21/98

VERDICT: \$450, intersection auto, rotator cuff.

An 11-1 Billings jury found that Jane Archibeque was negligent and a cause of Steve Chavez's injuries in connection with a collision at 7th St. W. and Howard in Billings in 3/96, and that Chavez was not negligent, and awarded \$449.90, the cost of Chavez's ER visit.

Archibeque, on the left at the open intersection, was ticketed for failure to yield. No injuries were reported at the time.

Chavez, 31, claimed a torn rotator cuff in the right shoulder and underwent surgery in 10/96. He incurred \$8,400 medicals. Dr. Daniels concluded that the accident and rotator cuff tear were related if Chavez had problems immediately after the accident and before a softball injury to the right shoulder in 8/96. Dr. Jurist stated that the delta V was about 8 mph and the impact to the left -side of Chavez's vehicle could not have caused a tear in the supraspinatus of the right rotator cuff.

Plaintiff's Expert: Orthopedic Surgeon Wheeler Daniels, Billings (deposed).

Defendant's Expert: Biophysicist John Jurist, Billings.

Original demand, \$45,000 or policy limits; original offer, \$0. Final demand, \$24,200; final offer, \$0. Jury request, \$24,200; jury suggestion, \$0.

Jury deliberated 1½ hours 3rd day; Judge Holmstrom.

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Frank Richter (Richter, Torkelson & Hanson), Billings, for Chavez; Randall Nelson (Nelson Law Firm), Billings, for Archibeque (State Farm Mutual Auto Ins.).

