

Nelson & Dahle, P.C.

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DISTRICT COURT

Zoppelli v. Billings , Yellowstone DV 99-32, 6/14/00

VERDICT: Defense, rough ride in city van, vertebrae.

A Billings jury found that the City of Billings was not negligent in connection with injuries claimed by Elizabeth Zoppelli in a city van in 8/98.

Zoppelli was a passenger in a Met Special Transit van which transports elderly and disabled passengers. Donna Sannon had picked her up from Aspen Meadows Retirement Community for transport to Yellowstone Medical Center for an appointment with her gastroenterologist.

She was in great pain and discomfort from a bowel condition. She described the 10-minute ride as bumpy and claimed that Sannon had been speeding and swerving. Sannon claimed that the trip was uneventful. She turned into the northwest entrance to YMC, encountering parked cars which narrowed the way. The right rear wheels went up and over a curb which protruded into the path. Zoppelli, seated in the left rear, claimed that she was bounced around and slammed against the side of the van.

Zoppelli, then 93, claimed aggravation of a compression fracture at T-12. It had been identified in an x-ray dated 8/16/98 when she sought ER treatment for intolerable back pain. Also beginning around 8/1/98 she had been experiencing severe constipation.

Dr. Jurist testified that the mechanics of the claimed injury were inconsistent with the right rear wheels going over the curb --- that forces on her spine were minimal and resulted in lateral movement rather than axial loading of the spine, which would be consistent with a compression fracture. He testified that ordinary bumps before arriving at YMC, such as driving over rain gutters, would have exerted greater force on her spine. He testified that her constipation would create an axial loading on the spine, consistent with a compression fracture.

Dr. Snider testified that the fracture in the 8/16 x-ray had occurred within 6 weeks and was responsible for her sudden onset of back pain in the weeks prior to the van ride. He testified that the fracturing process began with the onset of constipation, and a natural progression occurred over a period of months and continued long after the ride.

Dr. Rizzolo testified that he could not tell the age of the fracture on the x-ray and that the ride contributed to the fracturing process.

Plaintiff's Experts: Orthopedic Surgeon Steven Rizzolo, Billings , (deposed).

Defendant's Experts: Biophysicist John Jurist, Billings ; Orthopedic Surgeon Robert Snider, Billings (deposed).

Original demand, \$45,000, final demand, unclear; offer, \$4,000. Jury request, \$40,000 for pain & suffering, \$11,000 medicals; jury suggestion, \$736 if anything. Mediator, Rockwood Brown.

Jury deliberated 35 minutes 3rd day; Judge Fagg.

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Brad Arndorfer, Billings , for Zoppelli; Randall Nelson & Jared Dahle (Nelson Law Firm), Billings , for the City (MMIA).