

DISTRICT COURT

Krause v. Ross, Yellowstone DV 93-1288, 11/28/95 .

VERDICT: Defense, low-speed rear-end auto, soft-tissue.

An 11-1 Billings jury found that Misty Ross was not negligent in a rear-end collision in 1/91 in which Nancy and Kimberley Krause claimed injuries.

Don Krause was heading south from Lavina on Hwy 3, with his wife Nancy, 38, and daughter Kimberley, 11. He was concerned about how closely he was followed by 3 cars. As he slowed to turn left onto a county road he was passed by Ross's parents. Ross began to pass Krause, saw that she could not safely complete the pass, and nearly stopped before bumping Krause.

After Krause moved forward out of the way, a third vehicle hit Ross at 40-45 mph. No one was ticketed; the patrolman cited weather conditions as the cause of the accident.

Krauses alleged that Ross was following too closely and failed to drive in a careful & prudent manner. Ross contended that she was not following too closely, and that Krause was not prudent in slowing to 3-5 mph and failing to complete his turn. She also contended that a bump at a speed differential of 2-3 mph (based on her expert's testing of Krause's bumper shocks) could not cause the alleged injuries.

Nancy claimed \$172 property damage and \$3,026 medicals. Kimberley claimed \$1,077 medicals. Both claimed soft-tissue injuries and general damages.

Plaintiff's Expert: Neurologist Arturo Echeverri, Billings .

Defendant's Experts: ME Harry Townes, Bozeman ; Biophysicist John Jurist, Billings .

Demand after complaint was filed, \$18,500, offer, \$8,500. Offer before summary judgment motion, \$2,500 (summary judgment was denied). Offer at trial, 0.

Jury deliberated 45 minutes 2nd day; Judge Barz.

(Ross settled with Farmers Ins., insurer of the third vehicle, driven by Chris Bauch, shortly after the accident for an undisclosed amount.)

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Donald Sommerfeld (Towe, Ball, Enright, Mackey & Sommerfeld), Billings , for Krauses; Randall Nelson (Felt, Martin, Frazier & Nelson), Billings , for Ross

(Mountain West Farm Bureau Ins.)