

**Post Verdict question re: sufficiency of economic damages;
right to recover punitive damages**

Sumpter v Matteson

On February 25, 2002, Matteson consumed methamphetamine and went for a drive, knowing he was under the influence. He drove in excess of the speed limit on the freeway until he exited and approached a lighted intersection. Although he could see the light was red more than a quarter mile away, Matteson never braked, as he explained he thought the light was going to change to green. He ran the red light, hit a vehicle in the intersection, sideswiped plaintiff's car and struck a third vehicle.

Plaintiff told the reporting officer she *did not realize she had been hit* until she exited her car and saw the damage. She informed the officer she was *not injured* and declined transportation to the hospital. Defendant served time for felony pleas to driving under the influence and related charges.

Plaintiff first saw a chiropractor March 8, 2002, eleven days after the accident. With treatment limited to x-rays by the first doctor, she changed to a different chiropractor, treating consistently for the next 5 months.

Plaintiff filed suit in February of 2003, and the case came to trial May 8, 2006. The jury awarded \$13,317.91 in past economic loss, no future economic loss, and \$20,000 in general damages. The jury also determined the defendant did not act with malice. Plaintiff moved for a new trial claiming the economic damages were inadequate in light of her medical bills of \$131,282.42. She also contended the finding Matteson acted without malice was contrary to the evidence in light of his conduct. The trial court

denied the motion and plaintiff appealed.

The appellate court explained that plaintiff had sustained a prior slip and fall in a Taco Bell in April 2001. She treated up to a month before the accident with Matteson, still complaining at that time of low back problems. Later, in November 2002, after completing chiropractic care for the subject accident with Matteson, plaintiff fell in her back yard, sustaining knee injuries. This was the first time she had ever complained of problems with her knee. Later, in January 2004, plaintiff sustained work injuries. She was eventually seen by an orthopedic surgeon and had both low back and knee surgery.

Matteson's defense attorney requested a medical exam which resulted in an opinion that the knee injury was unrelated to the car accident. A radiology review suggested the back condition was related to pre-existing degenerative change in the lumbar spine. The appellate court found there was **substantial evidence** to support the jury's finding regarding the small portion of the damages claim that was related to the accident.

The court then examined the issue concerning the jury's decision not to award punitive damages. Plaintiff claimed the only inference to be drawn from defendant's conduct was that he acted maliciously in driving after using drugs. The court agreed that Matteson's actions reflected a conscious disregard for the rights and safety of others and **would have supported the imposition of punitive damages.**

The appellate justices went on to point out that in **Brewer v Second Baptist Church** (1948) 32 Cal 2d. 791, Justice Traynor noted that:

... a plaintiff, upon establishing his case, is always entitled

of right to compensatory damages. But even after establishing a case where punitive damages are permissible, he is never entitled to them. ***The granting or withholding of the award of punitive damages is wholly within the control of the jury.....*** Upon the clearest proof of malice in fact, it is still the ***exclusive province*** of the jury to say whether or not punitive damages shall be awarded.

Therefore, the appellate court left the jury's finding against the awarding of punitive damages intact. The judgment was affirmed on appeal.