



Defense Lawyers  
Association

## July 2018 Verdict

<b>Submitted By</b>	<b>Ripley Harwood</b> Ripley B. Harwood, P.C. <a href="mailto:Ripharwoodrbhpc@gmail.com">Ripharwoodrbhpc@gmail.com</a> (505) 299-6314
<b>Court</b>	State Court
<b>County</b>	Bernalillo
<b>Judge</b>	Shannon Bacon/Clay Campbell
<b>Defense Counsel</b>	Rip Harwood
<b>Plaintiff Counsel</b>	Terry Revo/Chris Templeman
<b>Trier</b>	6 Person Jury
<b>Style</b>	Cheyenne DeHerrera v Katherine Kessler; Second Judicial District Court Cause No. D-202-CV-2016-00101
<b>Statement of Facts</b>	Lawsuit for personal injury arising out of a 3-vehicle intersection accident. Plaintiff was vehicle 2, stopped behind vehicle 1 (defendant). Vehicle 1 was stopped on a green light waiting to make a u-turn at an intersection without a turn bay where left turns are permitted by u-turns are not. Plaintiff was rear-ended at low speed and pushed into defendant. Plaintiff claimed defendant should not have stopped there to make an illegal u-turn. Defendant argued she had not initiated a u-turn and that stopping on a green to wait for oncoming traffic to clear is not prohibited at this location because left turns are authorized. Defendant argued she was not negligent and that the rear-ending driver (a non-party), caused the accident and plaintiff's injuries. Plaintiff racked up \$100,000 in medical bills and demanded \$400,000 - \$600,000 in past and future damages. Jury found defendant negligent but concluded that defendant did not cause the accident or the plaintiff's alleged injuries.
<b>Verdict</b>	Defense
<b>Comments</b>	This case should have been dismissed on summary judgment on grounds that persons stopped waiting to make a left turn owe no duty to those approaching from behind, and on the grounds that such activity while a cause in fact of this type of accident, is not a proximate cause. Every reported decision from around the country on similar facts (7-8) imposed no duty on such drivers to anticipate the actions of those coming from behind. Defendant's SJ motion and DV motions at trial were nevertheless denied.
<b>Experts</b>	Scott Perkins, traffic engineer. G. Theodore Davis, MD - medical issues and mechanism of injury Rex Jung, Ph.D - neuropsychologist - plaintiff's alleged PTSD claim