MALLORY STADTLANDER : NUMBER: 535,596-B

VERSUS : FIRST JUDICIAL DISTRICT COURT

JEFFERY A. TAYLOR, as father

and Administrator of the estate of

HALEY L. TAYLOR, and

ALLSTATE INSURANCE

COMPANY : CADDO PARISH, LOUISIANA

 **REASONS FOR JUDGMENT ON QUANTUM**

Trial was held January 20, 2011. Liability was stipulated as to the March 21, 2009 accident, and the Court heard testimony on issues of quantum from the plaintiff, Mallory Stadtlander, and Chiropractic Thomas Nosser. The Court also received into evidence a number of exhibits, notably medical records from Willis Knighton Pierremont Health Care Center, The Musculoskeletal Institute of Louisiana/Dr. Lewis Jones and records from Nosser and Nosser Chiropractic. Counsel for plaintiff has characterized this as a 5 month injury and has argued that general damages should be set at “a minimum of $12,500.00” while counsel for defendant has characterized this as a 2-3 month injury and argued for an amount of $2,000.00 to $3,500.00. For reasons which follow, the Court concludes that special medical damages should be set in the amount of $5,369.82 and general damages should be set in the amount of $8,000.00.

The accident of March 21, 2009 was a rear-end automobile collision. Ms. Stadtlander, then age 20, was northbound on East Kings Highway, stopped and waiting to make a left turn into the Albertson’s parking lot. Young Haley Taylor, also northbound on E. Kings, hit the rear of the vehicle in front of her which in turn collided with Ms. Stadtlander’s Dodge Neon. As reflected by photographs in Plaintiff’s Exhibit 3, the vehicle was totaled, with property damage amounting to $6,482.77, ultimately paid by the insurer of the Taylor vehicle, Allstate Insurance Company.

Ms. Stadtlander was examined at Willis Knighton Pierremont Health Center, diagnosed with cervical strain with signs of consistent symptomology. Of particular note is the CT report indicating a “congenital anatomic variation in the upper cervical spine, congenital C 2-3 fusion”.

On April 9, 2009, Ms. Stadtlander was examined by Dr. Lewis Jones, Orthopedic Specialists of Louisiana, who, in his review of the Willis Knighton records, noted the “congenital fusion at C 2-3". She was provided a Medrol Dosepak to be followed by Naprelan and referred to outpatient therapy.

Ms. Stadtlander was treated by Nosser and Nosser Chiropractic/Dr. Tom Nosser approximately nine times between April 2 and July 14, 2009. The reports indicate, and Dr. Nosser testified, that he recommended that Ms. Stadtlander be treated in his clinic on a more regular basis in an effort to receive maximum chiropractic relief from the cervical strain. Ms. Stadtlander testified that because of her schedule as a full time student, also employed, she was unable to fully comply with Dr. Nosser’s regimen – a point argued by Allstate’s counsel that Ms. Stadtlander failed to adequately mitigate damages. However, Dr. Nosser opined that Ms. Stadtlander’s injuries were exacerbated by the congenital condition. Ms. Stadtlander also testified that she had particular difficulty in the Blue Cliff College clinics in connection with her massage therapy curriculum in which, on weekends, she would be required to perform massage therapy for four hours – difficulty which she had not had prior to the accident.

The Court finds Ms. Stadtlander credible and accepts her testimony that she was injured in an accident for which she had no fault. Her congenital condition was exacerbated by the trauma of the accident. However, the Court agrees with the concept advanced by Allstate that she could have been more fastidious in her treatment regimen thereby achieving maximum improvement sooner. Of course, the Nosser regimen would have cost more for the first two months of treatment, which would impact the special damages assessment, but would have offset plaintiff counsel’s general damage argument.

Given all of the particular circumstances (significant impact, exacerbation of previous asymptomatic congenital condition, young (now 22) resilient person versus somewhat non-aggressive treatment regimen), the Court sets general damages in the amount of $8,000.00 and sets special damages in the amount of $5,369.82.

Property damage in the amount of $6,482.77 and rental car expense of $260.46 have already been paid by Allstate Insurance Company.

Past wages of Ms. Stadtlander for the 24 hours (at $20.00 per hour) lost as a result of this accident are assessed in the amount of $240.00.

The expert witness fee of Thomas Nosser is set at $250.00.

Counsel shall submit a formal Judgment in accordance with La. D. Ct. R. 9.4.

Signed this 21st day of January, 2011 in Shreveport, Caddo Parish, Louisiana.

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 SCOTT J. CRICHTON

 DISTRICT JUDGE

DISTRIBUTION:

E. Ray Kethley, Counsel for Mallory Stadtlander

S. Curtis Mitchell, counsel for Jeffrey A. Taylor, as father and administrator of the Estate of Haley L. Taylor and Allstate Insurance Company