

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2007-014804

01/08/2009

HONORABLE JOSEPH B. HEILMAN

CLERK OF THE COURT  
L. Muhammad  
Deputy

MINDY AKERS-ARGOVITZ

SHANE L HARWARD

v.

LOUIS MOSES

JOEL D DECIANCIO

**MINUTE ENTRY**

This Court is in receipt of the *Plaintiff's Motion to Reconsider*, in which the Plaintiff requests the Court to reconsider its trial minute entry dated December 5, 2008 finding in favor of the Defendant Louis Moses and against the Plaintiff Mindy Akers-Argovitz.

IT IS ORDERED granting *Plaintiff's Motion to Reconsider* for the following reasons:

The Motion points out to the Court that it failed to make findings of fact and conclusions of law as requested by Plaintiff at the beginning of trial.

The Court on this date conducted a telephonic conference with both counsel and has in fact concluded that the Court did not make findings of fact and conclusions of law as requested by the Plaintiff.

Therefore,

The Court makes the following findings of fact and conclusions of law:

1. Mindy Akers-Argovitz and Louis Moses were involved in a motor vehicle accident on December 6, 2006.

2. Louis Moses' negligence caused the motor vehicle accident.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2007-014804

01/08/2009

3. Mindy Akers-Argovitz was driving a 2005 Infinity G35 at the time of the accident.

4. Ms. Akers-Argovitz was the owner of the 2005 Infinity G35 at the time of the accident.

5. Following the accident, the 2005 Infinity G35 was repaired at Gilbert Collision Center, a repair facility selected by Ms. Akers-Argovitz upon a referral from her attorney.

6. The 2005 Infinity G35 was repaired to industry standards.

7. At no time following the repair of the 2005 Infinity G35 did Ms. Akers-Argovitz notify Gilbert Collision Center of any problems with the vehicle.

8. At no time following the repair of the 2005 Infinity G35 did Ms. Akers-Argovitz return the vehicle to Gilbert Collision Center with complaints about the repair.

9. Ms. Akers-Argovitz still owns and drives the 2005 Infinity G35.

10. On one occasion after the accident, Ms. Akers-Argovitz contemplated trading in the 2005 Infinity G35, not due to the accident, but because she wanted a bigger vehicle.

11. Ms. Akers-Argovitz has not listed the 2005 Infinity G35 for sale nor has she made any attempts to sell it.

12. Ms. Akers-Argovitz has no present intention of selling or trading the 2005 Infinity G35.

13. Plaintiff's expert F.E. Troye never personally inspected the 2005 Infinity G35 prior to rendering his opinions in this case, or at any time up to the present.

14. All vehicles depreciate over time, regardless of whether they have been involved in a collision.

15. The inherent diminished value that results from a collision lessens over time as a vehicle ages.

16. Plaintiff's expert F.E. Troye made no attempt to locate comparable vehicles that had been involved in collisions.

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2007-014804

01/08/2009

17. Ms. Akers-Argovitz has not proved by a preponderance of the evidence that she has suffered actual financial loss.

18. Plaintiff's expert F.E. Troye's testimony was totally unconvincing with respect to his calculation regarding the diminution of value to Plaintiff vehicle caused by the accident and subsequent repair.

As a result of the foregoing findings of fact and conclusions of law,

IT IS ORDERED granting judgment to the Defendant Louis Moses as against the Plaintiff.

The Court specifically incorporates the reasoning and Order set forth in its September 3, 2008 minute entry as additional conclusion of law in this matter.

The final conclusion of law would be:

The Court reiterates that the Defendant's verdict in this matter is rendered solely on the fact that Plaintiff failed to present any credible evidence of diminution in value of the car as it exists now and as it existed prior to the time of the accident in question.

**HONORABLE JOSEPH B. HEILMAN  
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