

VERDICTS & SETTLEMENTS

\$1.4M awarded in auto negligence matter *Plaintiff treated poorly by insurance company*

In this case, the plaintiff was broadsided by an uninsured drunk driver who was traveling 88 mph and ran a stop sign. The plaintiff possessed a \$600,000 uninsured motorist underlying policy with a \$1 million umbrella.

The plaintiff suffered a serious impairment of a body function and permanent serious disfigurement, sustaining a right closed fracture dislocation of his ankle, a fracture of the left femur in the subtrochanteric region, and a comminuted split depressed lateral tibial plateau fracture. The plaintiff underwent multiple surgeries and received 24-hour attendant care for several months.

Future complications include potential knee replacement and surgical revision to assist left femur non-union. The plaintiff's wife filed a claim for loss of consortium.

Plaintiff's counsel said Farmers Insurance Exchange "shot themselves in the foot from the very beginning" of the claim because instead of treating their own insured, the plaintiff, with decency and compassion, they "treated him like road kill."

Plaintiff's counsel added that the plaintiff's treating physician prescribed a \$10,000 home modification to allow the plaintiff to use the toilet and shower facility on the first floor of his two-story home.

Farmers Insurance Exchange forced the plaintiff, against his doctor's advice, to use a transportation service at a cost of \$200 per visit to drive him to a Hampton Inn at a cost of \$100 per visit to take a shower.

Moreover, the plaintiff's doctor indicated showering should be performed daily. Farmers authorized showering only two days per week. Plaintiff's counsel said the ride to the hotel caused additional pain and suffering due to a dirt road that had to be traveled from the plaintiff's home.

When litigation was threatened, Farmers demanded that the plaintiff be showered at a YMCA or at South Lyon High School, and eventually only authorized a sponge bath. Ultimately, plaintiff's counsel said, Farmers was required to modify the plaintiff's first-floor bath.

Meanwhile, counsel said Farmers was warned that its incredibly insensitive treatment of its own insured would come back to haunt them in the litigation of the \$1.5 million uninsured motorist claim, but ignored advice.

Plaintiff's counsel told *Lawyers Weekly* that this example of the poor care and treatment of the insured continued throughout the litigation and was not missed by the arbitrators in this matter. The arbitrators unanimously reached an

award of \$1,375,000.

The keys to winning this case, according to plaintiff's counsel, were the strong medical testimony and the credibility of the client.

Type of action: Auto negligence
Type of injuries: Fractured femur; fractured ankle; fractured knee

Name of case: Patton v. Farmers Insurance Exchange, et al.

Court/case no./date: Wayne County Circuit Court; #05-509-002-NI; March 28, 2005

Name of judge: John H. Gillis

Arbitration amount: \$1.375 million

Allocation of fault: 100 percent as to defendant

Attorney for the plaintiff:

Scott A. Goodwin

Attorney for the defendant: Withheld

Name/city of most helpful experts:

Michael Christos, M.D., Orthopedic Surgeon, Ypsilanti; Ronald T. Smolarski, M.A., CRC, Ann Arbor
Insurance carrier(s): Farmers Insurance Exchange

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