



THE MICHIGAN TRIAL REPORTER

A VerdictSearch Publication

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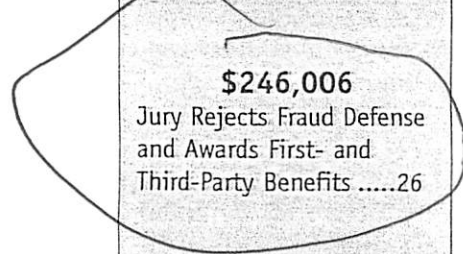
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Wayne County

Circuit Court — Detroit

Dentist Liable to Root Canal Patient for Loss of Tooth

Case Caption:

Barbara Wilcox v. Jason M. Cohen, D.D.S. and Jason M. Cohen, D.D.S., P.C. d/b/a Cohen Family Dentistry

Verdict: \$6,500

Judge: Amy P. Hathaway

Date of Verdict: 5/17/2012

Attorneys:

Plaintiff: Robert Gittleman, Farmington Hills

Defendant: Paul J. Johnson, Troy

Facts: A 67-year-old patient suffered the loss of a tooth, which she said was the result of negligent endodontic care provided by the defendants. The defendants denied liability, but a Wayne County jury returned a \$6,500 verdict for the plaintiff.

Plaintiff Barbara Wilcox treated regularly with Defendant Jason M. Cohen, D.D.S. at Defendant Jason M. Cohen, D.D.S., P.C. d/b/a Cohen Family Dentistry for dental services. Cohen recommended a root canal on plaintiff's lower molar. During the procedure, Cohen perforated the tooth with an endodontic file, resulting in the loss of the tooth.

Plaintiff alleged that Cohen was negligent in performing the root canal and that she would require a dental implant. Plaintiff argued that the endodontic treatment was negligent and resulted in the separation of an endodontic file, which caused the extraction of her left mandibular second premolar tooth.

Defendant asserted that he was properly using an endodontic file to clean the calcified root canal when the endodontic file became lodged and caused the file to break. Defendants argued that broken endodontic files are a known risk of endodontic treatment, even with the most appropriate preventive measures. Additionally, defendants maintained that full disclosure was immediately provided to plaintiff, as well as proper follow-up care and treatment.

Plaintiff Profile: Plaintiff was a 67-year-old female who was retired.

Alleged Injury: Improperly performed root canal, resulting in the loss of a lower molar. Plaintiff claimed she would need a future dental implant. She sought \$8,000 in past and future medicals, as well as damages for pain and suffering.

Jury Deliberations: 3 hours

Insurance Carrier: Cincinnati

Evaluation: \$17,500

Case Number: 10-007745-NH

Editor's Notes: Per defense counsel, no case evaluation sanctions had been awarded at the time of publication. A motion was pending before the trial court in which defendant requested an award to defendant of taxable costs, interest and case evaluation sanctions in the sum of \$50,670. In addition, plaintiff filed a motion asserting that she was the prevailing party and requested taxable costs, interest and attorney fees.

Wayne County

Circuit Court — Detroit

Jury Awards Damages to Plaintiff After Rejecting Progressive's Fraud Defense

Case Caption:

Charnita Washington v. Progressive Michigan Insurance Company

Verdict: \$246,006. Breakdown: \$45,573 for first-party medical benefits; \$6,960 for first-party household services; \$4,298 in penalty interest; and \$189,175 for uninsured motorist benefits. In addition, plaintiff was awarded \$9,200 in statutory interest, \$8,900 in costs, \$52,807 in attorney fees and \$10,688 in no-fault attorney fees.

Judge: Susan D. Borman

Date of Verdict: 5/7/2012

[Redacted text]

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Wayne County

City of Detroit

Jury Award Damages to Plaintiff

After \$200,000 Verdict

Verdict

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THE MICHIGAN TRIAL REPORTER

Attorneys:

Plaintiff: Bret A. Schnitzer, Lincoln Park

Defendant: Mark E. Williams, Sterling Heights

Facts: An insurance carrier questioned the legitimacy of a claim for first- and third-party benefits following an accident in a vehicle on which a policy had recently been purchased. A Wayne County jury was asked to first determine if an accident had actually occurred. They found for the plaintiff on that issue, following which they were asked to determine damages. The jury awarded \$246,006 to the plaintiff.

Plaintiff Charnita Washington was driving a pickup truck insured by Defendant Progressive Michigan Insurance Company. The pickup truck, which was owned by another individual, was rear-ended by a vehicle at Puritan Street. The offending party fled the scene. Plaintiff and two of the four passengers in the truck were injured. According to plaintiff, the police were called, but they ended up reporting the accident at a precinct when an officer did not arrive within 45 minutes of the call. Plaintiff sought emergency treatment the following day for neck pain.

The owner of the pickup truck had purchased the insurance policy from defendant just one week before this accident. The policy provided for \$250,000 in uninsured motorist benefits. Plaintiff did not own a vehicle, so she sought coverage under the owner's policy. Defendant denied coverage on the basis that the owner misrepresented where he lived when he bought the policy, but defendant abandoned that argument when the vehicle owner provided proof of residency. Defendant then maintained that the owner fraudulently obtained insurance on the 26-year-old vehicle. Defendant also asserted that police did not investigate at the scene of the accident, all parties sought treatment from the same doctor the day after the accident and the vehicle owner made an online purchase of the largest policy offered by defendant. Defendant argued that the accident was staged for the purpose of filing a claim; the damage to the vehicle could have occurred before this alleged accident; and it was appropriate to deny PIP and uninsured motorist coverage.

Plaintiff alleged that a police report was made in person because an officer did not arrive at the scene after a call to the police was made. She also argued that all injured parties sought treatment from the same doctor because the doctor in question was affordable. Moreover, plaintiff alleged that there was nothing fraudulent or suspicious about purchasing an online policy with the highest limits available. Plaintiff asserted that she was entitled to PIP and third-party benefits.

Plaintiff Profile: Plaintiff was a 38-year-old single female who was unemployed.

Alleged Injury: Plaintiff sought first-party, no-fault PIP benefits for medicals and household services. She also sought third-party

damages for a cervical disc herniation, which required steroid injections for pain and medical treatment. Plaintiff was not a surgical candidate.

Settlement Efforts: Last Demand: N/A
Last Offer: \$135,000

Insurance Carrier: Progressive (first and third-party carrier)

Expert(s):
Plaintiff: Harold Josephs, Ph.D.
Safety Engineer – Oak Park, MI

Defendant: Dale K. Dent
Accident Reconstruction – Grafton, OH

Evaluation: \$100,000 (underinsured coverage) and
\$35,000 (PIP benefits)

Case Number: 11-000941-NF

Editor's Notes: Defendant appealed the verdict.