

Metropolitan

Greater Mobile Area

Section

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Refusal to pay claim costs Aetna \$3.5 million

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In a record setting decision, the Alabama Supreme Court has affirmed a \$3.5 million civil judgment to a Mobile couple who sued Aetna Life & Casualty Co., Inc. for showing bad faith in refusing to pay a hospitalization claim of \$1,650.

In November 1982, a Mobile County Circuit Court jury deliberated 50 minutes before returning a verdict in favor of Margaret and Roger Lavoie Sr. The jury awarded them \$3.5 million in punitive damages and \$1,650.22 in compensation. Circuit Judge Michael Zoghby denied motions for a new trial or to reduce the judgment and the case was appealed.

In a five-four decision, the highest court stated in a 62-page opinion "the evidence is overwhelming that Aetna acted in bad faith."

The case involved a new principle of law in which a plaintiff may recover punitive damages if a defendant shows bad faith in a contractual relationship.

The Lavoie's attorney, Buddy Brown, said Aetna refused to pay \$1,650.22 of a \$3,028 claim for Mrs. Lavoie's stay in Mobile Infirmary. This was despite the couple's cooperation in providing documentation that her doctor deemed the hospitalization necessary.

Brown, who sent a case of champagne to his law partners at Cunningham, Bounds, Yance, Crowder & Brown, said "obviously I was pleased," with the court's affirmation.

Brown said "it is a record judgment. It's the largest single award ever returned to a plaintiff in a personal injury suit in the state of Alabama, that was affirmed by the Supreme Court."

Brown said "Mrs. Lavoie and her husband both continue to be in poor health. I found out on the day the judgment was affirmed, that Mrs. Lavoie has a sister who is an invalid and is being cared for by another sister here. In addition, the bill has yet to be paid to Mobile Infirmary. The judgment will be a great help to her and her family."

Lavoie is retired on disability from the Mobile police department.

Brown said the court's decision "is most significant from the standpoint of what it does for buyers of insurance in the state, who prior to the recognition of bad faith remedy, had no weapon they could wield against an insurance company other than the contractual claim benefits."

The Supreme Court said that from the testimony and exhibits "the only conclusion a

reasonable person could draw is that Aetna, through its employees, was guilty of fraud, bad faith, and unfair dealing, had a dishonest purpose, and was motivated by self interest and ill will."

The court said the evidence shows that Aetna took the position that a woman who was acutely ill and demonstrated personality changes, should have been treated as an outpatient.

"Aetna made its initial denial of the claim without any legal justification and with no medical opinion to support the denial of a complicated medical treatment claim.

"Aetna made a second denial without any medical decision whatsoever, in violation of the established company procedure for handling such claims.

"Upon receiving medical letters detailing the need for hospital confinement and a letter from Lavoie's attorney, Aetna decided to wait to see if the Lavoies were going to file suit.

"Aetna made a third denial of the claim without any medically qualified opinion to support the denial. Aetna intentionally misrepresented to the Lavoies that the claim had been repeatedly reviewed by members of the medical department."

The high court said "the plaintiffs were

successful in unvelling an effort on the part of Aetna to cover up its wrongdoing. In effect, the jury witnessed an open court demonstration of the type of fraud which Aetna denied so vehemently."

The Supreme Court said "in the face of such overwhelming evidence, reasonable men could not disagree, that Aetna was guilty of bad faith, ill will, oppression and malice in their successive refusals of the Lavoie claim."

The high court further stated that Aetna's bad faith refusal to pay the hospital bill resulted in the Lavoies receiving collection letters and threats of suit from Mobile Infirmary. The evidence showed that the Lavoies were incapable of paying the bill with their own finances.

The justices said "a thousand experts testifying retrospectively could not avert the fact that, without a doubt, Aetna recklessly disregarded the facts and proofs of claim submitted by the Lavoies."

Supreme Court Justices James H. Faulkner, Richard L. Jones, Reneau P. Almon, T. Eric Embry and Oscar W. Adams Jr. concurred in the judgment while Chief Justice C.C. "Bo" Torbert Jr. and Justices Hugh Maddox, Janie L. Shores and Samuel A. Beatty dissented