

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO**

Civil Action No. 10-cv-00892-PAB-KLM

DONALD L. ETHERTON

Plaintiff,

v.

OWNERS INSURANCE COMPANY, a Michigan insurance company,

Defendant.

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**FINAL JUDGMENT**

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This **Final Judgment** is entered pursuant to Fed. R. Civ. P. 58(a) and in accordance with the orders entered during the pendency of this case.

I. This action was tried before a jury of nine duly sworn to try the issues herein with U.S. District Judge Philip A. Brimmer presiding, trial commencing January 14, 2013, and the jury rendered a verdict.

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**VERDICT FORM**

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We, the jury, upon our oaths, render our verdict in response to the following interrogatories:

1. Do you find by a preponderance of the evidence that defendant breached a contract to provide underinsured motorist coverage to plaintiff?

Yes   X   No

**If you answered “Yes” to Question No. 1, please answer Question No. 2. If you answered “No” to Question No. 1, DO NOT answer Question No. 2.**

2. Do you find by a preponderance of the evidence that defendant delayed or denied payment of insurance benefits to plaintiff without a reasonable basis?

Yes   X   No       

**If your answer to Question No. 1 was “Yes,” and your answer to Question No. 2 was either “Yes” or “No,” please answer Question Nos. 3 through 5.**

3. What is the total amount of plaintiff's damages, if any, for noneconomic losses or injuries, excluding any damages for physical impairment or disfigurement?

  \$ 375,000.00  

4. What is the total amount of plaintiff's damages, if any, for economic losses, excluding any damages for physical impairment or disfigurement?

  \$ 857,000.00  

5. What is the total amount of plaintiff's damages for physical impairment or disfigurement?

  \$ 150,000.00  

II. Pursuant to Colorado Revised Statutes § 10-3-1116(1), any first-party claimant whose claim for payment of benefits has been unreasonably delayed or denied may recover reasonable attorney fees, court costs, and two times the covered benefit. Plaintiff Donald L. Etherton's covered benefit is \$750,000.00. Accordingly, it is

ORDERED that judgment shall enter in favor of plaintiff Donald L. Etherton and

against defendant Owners Insurance Company in the amount of \$1,500,000.00. It is

FURTHER ORDERED that postjudgment interest shall accrue at the rate of 0.15%. It is

FURTHER ORDERED that the plaintiff is **AWARDED** reasonable attorney fees upon motion pursuant to D.C.COLO.LCivR 54.3 to be filed by or before February 4, 2013. It is

FURTHER ORDERED that the plaintiff is **AWARDED** costs, to be taxed by the Clerk of the Court pursuant to Fed. R. Civ. P. 54(d)(1) and D.C.COLO.LCivR 54.1.

Dated at Denver, Colorado this 6th day of February , 2012.

FOR THE COURT:

JEFFREY P. COLWELL, CLERK

By: s/Edward P. Butler

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Edward P. Butler, Deputy Clerk

APPROVED BY THE COURT:

s/ Philip A. Brimmer

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PHILIP A. BRIMMER

United States District Judge