

**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.

AMENDED FINAL JUDGMENT

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, and the jury has rendered a verdict.

VERDICT FORM

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

The limit of plaintiff Donald L. Etherton's insurance policy with defendant Owners Insurance Company was \$750,000.00. Therefore, it is

ORDERED that judgment shall enter in favor of plaintiff Donald L. Etherton and against defendant Owners Insurance Company on plaintiff's first claim for breach of contract in the amount of \$750,000.00.

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

FURTHER ORDERED that judgment shall enter in favor of plaintiff Donald L. Etherton and against defendant Owners Insurance Company on plaintiff's second claim

for unreasonable delay or denial of payment of a claim for payment of benefits in the amount of \$1,500,000.00. It is

FURTHER ORDERED that post-judgment interest shall accrue at the rate of 0.14%.

Pursuant to and in accordance with the Order [Docket No. 140] by Judge Philip A. Brimmer entered on September 30, 2013, it is

FURTHER ORDERED that Plaintiff's Motion to Amend or Alter Judgment Pursuant to F.R.C.P. 59(e) [Docket No. 110] filed by plaintiff Donald L. Etherton is GRANTED. It is further

FURTHER ORDERED that the Court's Final Judgment [Docket No. 109] is amended to award plaintiff damages in the amount of \$2,250,000.00, in addition to costs and attorney's fees. It is

FURTHER ORDERED that post-judgment interest shall continue to accrue at the rate of 0.14%.

Dated at Denver, Colorado this 1st day of October, 2013.

FOR THE COURT:

JEFFREY P. COLWELL, CLERK

s/Kathy Preuitt-Parks
Kathy Preuitt-Parks
Deputy Clerk

APPROVED BY THE COURT:



PHILIP A. BRIMMER
United States District Judge