

BREAKING NEWS

\$3 million bad-faith verdict

Jury: Auto insurer 'willful, wanton' in refusing claim

By John Accola
ROCKY MOUNTAIN NEWS

In what is believed to be the state's largest bad-faith verdict against an auto insurer over lost wages, a Boulder jury has awarded a former University of Colorado math professor nearly \$3 million.

Dominic Peressini, 39, had sought \$125,000 — 85 percent of his actual lost wages — during a

year-long sabbatical following a 2003 car accident that left him with a brain injury and mangled arm.

After a four-day trial that ended Thursday, a Boulder District Court jury deliberated two hours into the evening to conclude Peressini was entitled to much more, including \$1.1 million in punitive damages and \$1.1 million for pain and suffering.

The six-member jury found against Peressini's insurer, American Family Mutual Insurance Co., for breach of contract and ruled the defendant's refusal to pay the \$125,000 claim was "willful and wanton."

Under state law, willful conduct

triples Peressini's lost wages award to \$375,000, said his Denver attorney, Sam Livingston.

American Family must also pay the plaintiff's attorney fees and 18 percent annual interest on the three-year-old wage award, Livingston said.

Madison, Wis.-based American Family, the country's 10th-largest car insurance provider, maintained Peressini's claim had not been formally denied but that the case was still under investigation.

The company's Denver trial attorneys, Art Karstaedt and Richard Orona, did not immediately return calls Friday.

An American Family spokesman said the company is consider-

ing an appeal.

Underwriting issues became a major focus of the plaintiff's case.

Livingston used a former American Family nurse case manager in Denver to portray the insurer as a callous claims adjuster, with the Colorado office under intense pressure to reduce personal injury protection payouts.

Jurors were told about a senior case manager who kept on her desk a battery-operated "if pigs could fly" toy, used as an office joke each time a rejected claim brought the



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phone, said he recently retired from his tenured professorship at CU and is still struggling with

staff closer to its cost-cutting goal.

Introduced was a 2003 Colorado business plan that called for reducing claims payouts by 28 percent to match the lower claims-loss ratios of American Family's competitors.

"The business plan was the smoking gun," Livingston said. "Underwriting problems shouldn't have anything to do with what you pay out in claims."

Peressini, reached by phone, said he recently retired from his tenured professorship at CU and is still struggling with

memory and cognitive problems from the 2003 accident. He has relocated to Spokane, Wash., where he has family and volunteers as a math tutor for high school athletes.

"Never in my life would I expect a verdict to come out like this over a million dollars," he said. "I'm a pretty simple person. All I wanted is what I needed."

Livingston said the jury award qualifies as the largest bad-faith verdict on record against a Colorado car insurer sued by a policyholder over wage-loss benefits.

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