

Network Services. She alleged that NSN committed numerous breaches of her two-year contract of employment. She claimed these breaches included her removal from the position of senior executive officer, the defendants' failure to pay her a \$30,000 bonus as guaranteed by the contract, failure to issue stock options and the repeated harassment and humiliation of the plaintiff by the defendants and their employees. The plaintiff alleged that the breaches were committed in a willful and wanton manner. The plaintiff alleged that she had no option but to leave her employment because of these breaches and the accompanying harassment by her co-workers. In addition, the plaintiff alleged that NSN Network Services conspired to cause the termination of her employment contract. She also claimed that the defendants Robert Lawrence, William Suffa and Jacor Communications improperly interfered with her employment contract. The defendants admitted that Ms. Montemayor had a written contract for employment with NSN Network Services. The defendants denied that NSN Network Services materially breached that agreement. The defendants submitted that the plaintiff was not discharged, constructively or otherwise, from her employment with NSN Network Services. Rather, the plaintiff terminated the agreement for what she termed as "good reason" on October 17, 1997, and the defendants maintained that she was not entitled to any compensation under that contract after October 17, 1997. Additionally, the defendants stated that there was no conspiracy to terminate the plaintiff's employment, and the defendants denied interfering with the plaintiff's employment contract. The defendants contended that they wished for the plaintiff to remain as an employee of NSN Network Services and they made continual efforts to have the employees of NSN Network Services work together in an effective and appropriate manner.

Note: The plaintiff has also filed a lawsuit for sexual harassment, to be tried in the United States District Court for the District of Colorado.

Damages Alleged: \$700,000 for economic damages plus non-economic damages on the tort claim and contract claim.

Final Demand Before Trial: In excess of \$1 million according to the plaintiff's attorney.

Final Offer Before Trial: \$50,000 joint offer and a confidential offer during trial according to the plaintiff's attorney.

Plaintiff's Expert Witness: None.

Defendants' Expert Witness: None.

Verdict: For the plaintiff and against the defendant NSN Network Services on the breach of contract claim, \$75,053.

For the defendants William Suffa and Robert Lawrence on the conspiracy claim.

For the plaintiff and against Jacor on the civil conspiracy claim. (The jury was unable to come to agreement on damages on the conspiracy claim against Jacor. The plaintiff has requested a new trial on the civil conspiracy claim against Jacor.)

For the defendants William Suffa, Robert Lawrence and Jacor Communications on the interference with contract claim.

Timothy C. Roach v. American Standard Insurance Company of Wisconsin

Case No: 98-CV-3248

Judge: John W. Coughlin

Trial Dates: November 29 - December 2, 1999

Plaintiff's Attorney: Sam Livingston

(The Law Office of Samuel G. Livingston)

Defendant's Attorney: Arthur R. Karstaedt

(Harris, Karstaedt, Jamison & Powers, PC)

Type of Claim: Bad faith breach of insurance contract and punitive damages. On October 2, 1997, Timothy Roach was driving a vehicle when he rear-ended a vehicle driven by Wanda Burg. On November 17, 1997, the defendant American Family Insurance Company of Wisconsin, denied coverage and cited a lapse in coverage for failure to pay premiums. In December 1997, the plaintiff paid \$800 of his personal funds for the property damage to Wanda Burg's car, and executed a release signed by Wanda Burg's personal injury attorney; the release indicated that Mr. Roach had settled only the property component of Ms. Burg's loss, and that further claims would be presented for personal injury and/or medical bills. The plaintiff brought this lawsuit to establish that he was covered under the defendant's policy of insurance at the time of the October 1997 accident; in addition, he claimed that the defendant had acted in bad faith. The plaintiff also was seeking punitive damages. The plaintiff said that American Family initially produced its entire claims file without objection; however, it was discovered later that 20 documents had been removed from the file, including a telephone log which indicated problems with the claim denial and a statement that the company would "lose if this matter goes to court or the insurance commissioner." In October 1998, the plaintiff moved for summary judgment as to the validity of defendant's cancellation process under Colorado law. American Family confessed coverage on December 17, 1998. American Family agreed to reimburse the plaintiff for the property damage payment which he had made from his own funds plus 10% interest, and the defendant agreed to indemnify the plaintiff for any future personal injury claim by Wanda Burg. The defendant refused to pay any attorney's fees or costs incurred to that point, and the case proceeded to trial on the issue of bad faith. The plaintiff alleged that American

Family violated its ongoing duty of care to the insured by attempting to conceal claims manuals and by other abuses during litigation. On December 17, 1998, the defendant agreed that a policy was in effect at the time of the accident. The defendant denied all other claims of the plaintiff.

Damages Alleged: Time off from work and mental anguish and grief associated with the defendant's conduct in exposing the insured to uninsured losses and attorney's fees. During trial, the court awarded the plaintiff attorney's fees paid to the time when the defendant confessed coverage.

Final Demand Before Trial: \$90,000 according to the plaintiff's attorney.

Final Offer Before Trial: \$15,000 offer of settlement in February 1999 according to the plaintiff's attorney.

Plaintiff's Expert Witness:

Michael Brian Kelly (regarding bad faith and industry standard of care)

Defendant's Expert Witness:

Richard Laugesen, Esquire (regarding bad faith and industry standard of care)

Verdict: For the plaintiff:

\$625,000 for economic losses

\$375,000 for non-economic losses

\$1,000,000 punitive damages.

Total: \$2,000,000.

Note: On December 17, 1999, the parties settled for \$800,000 according to the plaintiff's attorney.

Marybelle Ferguson, plaintiff; and State Farm Insurance Company and Debra Flynn, plaintiff-intervenors, v. Sally McCain

Case No: 99-CV-0034

Judge: Morris Ben Hoffman

Trial Dates: January 10 - 14, 2000

Plaintiffs' Attorneys:

Marybelle Ferguson: Jeffrey S. Wittebort
(Weaver, Oppenheim & Wittebort, PC)

Debra Flynn and State Farm: Jeffrey C. Fleischner
(Ritsema & Lyon, PC)

Defendant's Attorney: Elizabeth A. Kleger
(Kleger & Kleger)

Type of Claim: Premises liability: fall. Subrogation.

The plaintiff, Marybelle Ferguson, claimed that she was injured when she fell at the defendant's business on January 28, 1997. Marybelle Ferguson is a live-in housekeeper and head aide who worked for Debra Flynn. Debra Flynn is confined to a wheelchair. Debra Flynn and State Farm Insurance were plaintiff-intervenors. The defendant Sally McCain is an acupuncturist who operates a business at home. Ms. Ferguson took Debra Flynn to an appointment at the defendant's home/business. There is

no wheelchair ramp at the defendant's home/business, and there are two steps at the entrance. Ms. Ferguson said that she was injured as she was helping the defendant lift Debra Flynn in her wheelchair. The plaintiffs alleged that the defendant was negligent for not having wheelchair access at her place of business and for dropping the wheelchair, which caused Ms. Ferguson to fall. Debra Flynn had a worker's compensation policy with State Farm; State Farm paid benefits after Ms. Ferguson fell. Debra Flynn and State Farm, the plaintiff-intervenors, alleged they were entitled to recover for worker's compensation benefits. The defendant denied negligence and denied that Ms. Ferguson was injured and damaged to the extent alleged. The defendant asserted that Ms. Ferguson was comparatively negligent. In addition, the defendant said that Ms. Ferguson had applied for Social Security disability two months before this accident occurred.

Damages Alleged: Marybelle Ferguson: Rotator cuff tear to the left shoulder which required surgery. Future physical therapy. Loss of income.

State Farm: \$64,000 in benefits paid to or on behalf of Marybelle Ferguson.

Final Demand Before Trial: \$20,000 for State Farm according to the defendant's attorney.

Final Offer Before Trial: No offer to Marybelle Ferguson and \$1,000 to State Farm going to the plaintiff-intervenors' attorney and the attorney for the defendant.

Plaintiffs' Expert Witnesses:

Scott Bainbridge, MD (treating physiatrist)
Rhonda Jackson, DC (treating chiropractor)

Defendant's Expert Witness: None.

Verdict: For the defendant and against the plaintiff and the plaintiff-intervenors.

Note: The jury found that Ms. Ferguson did not incur injuries; the defendant was negligent in lifting the wheelchair, and the defendant did not know about a danger on the property or fail to use reasonable care to protect against the danger.