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## After \$3.9M jury verdict, plaintiff readies for bad-faith case

BY LAURAANN WOOD  
Law Bulletin staff writer

A Cook County jury has awarded \$3.9 million to three people who were injured in a car accident caused by a drunken driver.

Prior to filing their lawsuit, the plaintiffs asked the defendant's insurance company to settle for a \$40,000 per-occurrence policy limit. Now, the plaintiffs' attorney said he's prepared to file bad-faith claims against the insurer so his clients get paid the full amount of the verdict.

In November 2011, Margaret Bennett, her 6-year-old daughter, Patricia Bennett, and Patricia's friend, 6-year-old Emily Walsh, were heading home from the Drury Lane Theatre in Oakbrook Terrace when Jose Rodriguez — who admitted to drinking 15 cans of beer in a McDonald's parking lot before driving — crossed into oncoming traffic and crashed into their vehicle.

Margaret Bennett suffered a crushed right leg that has needed six surgeries. During trial, doctors testified that she will likely need two additional surgeries — an ankle fusion and a total knee replacement — to sufficiently repair the leg.

Patricia suffered a broken clavicle and other bruising, and Emily suffered a fractured skull and bleeding in the brain.

Rodriguez had a policy limit with Unique of \$20,000 per person or \$40,000 per occurrence. The plaintiffs asked the company to settle for the full \$40,000 policy amount before

they filed any lawsuit.

G. Grant Dixon III, owner of Dixon Law Office in La Grange who represented the plaintiffs, said his clients were willing to settle for that amount because they understood the process works quickly "if everybody deals with everybody fairly."

Unique didn't offer to settle the case until after Dixon filed a 10-count personal-injury complaint in Cook County Circuit Court in 2012. The suit sought compensatory damages for Rodriguez's alleged negligence and \$1 in punitive damages, which the jury awarded.

Dixon said he included the dollar for punitive damages to send a message that insurance companies should not wait for a filed complaint to offer a settlement to plaintiffs who have expressed willingness to settle before filing suit.

During trial, Rodriguez admitted negligence but fought the extent of the victims' injuries. He rejected the notion that Emily received any brain damage during the crash and that she would continue to experience mental impairment as a result.

Circuit Judge Jeffrey Lawrence presided over the six-day trial, and the jury returned its verdict Wednesday — including the \$1 punitive damage award — in about five hours.

Dixon said he's not confident that Rodriguez will be able to pay the verdict.

"Mr. Rodriguez, we assume, does not have the financial



G. Grant Dixon III

abilities to pay a \$3.9 million verdict," Dixon said.

"He's in jail (for seven years as a result of the accident), he came to the United States by his own admission illegally, and by his own admission, he was working under an illegal Social Security number. I'm assuming he will get deported as soon as he gets out of jail. We have contended that his insurance company that insured him had acted in bad faith in failing to negotiate this claim pre-suit."

Dixon said he intends to use the \$1 punitive damage award as evidence of willful and wanton conduct by Unique. He alleges that Unique acted in bad faith because the company waited to offer a settlement until after he filed a lawsuit.

"They would rather commit the wrong and then beg for forgiveness than do what's right," Dixon said. "The law is very clear that that is not how insurance

companies are supposed to act."

Clifford M. Panek, a partner at Parrillo, Weiss & O'Halloran who represents Rodriguez, said the jury's verdict was fair and consistent with the value of the case. He said Unique made a policy-limit settlement offer after it learned the extent of the victims' injuries.

Panek said Dixon's pre-suit demand didn't come with any "proper" information such as what the extent of injuries were or the amounts of any medical bills.

"It became very difficult for them to make an intelligent decision," he said.

Panek said Unique committed no wrong in waiting for more information to make a settlement offer.

"Nobody would do anything different — not a reasonable person, anyway," he said.

Citing a police report filed after the crash, Dixon said the company was notified of the crash and initial nature of the plaintiffs' injuries within 48 hours of the accident.

He said Unique's settlement offer may have come after he filed a suit, but it was based on no more information that what he provided the day the plaintiffs demanded its policy limit.

"The testimony will be very clear in the bad-faith case that Unique was well aware of the crash early on," Dixon said.

Dixon said he plans to file a complaint with the bad-faith claims within the next 30 days.

The case is *Christopher Walsh, et. al. v. Jose Rodriguez*, 12 L 3207.