

\$1.75M settlement reached after interpleader litigation

By: Scott Lauck scott.lauck@molawyersmedia.com September 11, 2019

A man whose family died in a car crash reached a \$1.75 million settlement following litigation about the defendant's insurer's level of liability, according to the family's attorney.

AW Smith of The AW Smith Law Firm in Columbia said the plaintiff's wife and minor son were struck in a T-bone collision while making a left-hand turn at an intersection in mid-September 2015. Smith said there was conflicting testimony regarding whether the light had changed to red before the defendant entered the intersection.

The wife and son were taken to a local hospital, where they both died from their injuries. The defendant and her minor occupants were treated and released.

The plaintiff's counsel sent correspondence to the defendant's liability insurance carrier, offering to settle his claims against the defendant for payment of the defendant's \$50,000 policy limits. The defendant's insurer, citing the multiple parties injured in the accident and the minimum limits policy, filed an interpleader action with the court.

Such an action allows the insurer to deposit its coverage limits into the court and allow it to decide how to split the proceeds. Smith said a jury trial was held on the interpleader suit in May 2017, with the jury awarding 100 percent of the \$50,000 to the plaintiff.

The plaintiff then filed a separate wrongful-death action against the defendant. The defendant's liability carrier continued to provide the defendant with a defense. A jury trial was scheduled for March 2019, but the parties reached a settlement through mediation for 35 times the amount of the policy limit.

Smith said he argued that the defendant's liability carrier was liable for acting in bad faith by failing to accept the policy limit demand. The insurer, he said, claimed that it had immediately offered its full policy limit to the claimants and that it could not be held liable in bad faith after filing an interpleader. Smith said he maintained that the bad-faith conduct occurred prior to the filing of the interpleader and that its filing didn't absolve the insurer of its prior conduct.

State lawmakers in 2018 changed the interpleader statute to provide a "safe harbor" for insurers in such cases, allowing them to avoid bad-faith claims if they file an interpleader

action within 90 days of the claim or demand for settlement.

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WRONGFUL DEATH, MOTOR-VEHICLE COLLISION

Venue: Boone County Circuit Court

Case Number/Date: Confidential/March 4, 2019

Plaintiffs' Expert: James Loumiet, Independence (accident reconstruction); John Ward, Prairie Village, Kansas (economics)

Caption: Confidential

Plaintiffs' Attorney: AW Smith, The AW Smith Law Firm, Columbia; Mike Campbell, The Law Office of Mike Campbell, Columbia

Defendants' Attorney: Confidential