

SOUTH CAROLINA LAWYERS WEEKLY

\$897K verdict for military vet injured in crash

By: Phillip Bantz  November 11, 2014

Columbia lawyer Robert Goings has a knack for winning big verdicts in seemingly small potatoes cases.

A few months ago he used an egg and a bucket to convince a jury that a vehicle occupant can be seriously injured in a crash even if his car isn't badly damaged. The egg represented his client, which broke when he dropped the bucket in front of the jury.

That case resulted in a \$600,000 verdict. The defense had offered to settle for \$1,000.

Goings scored another trial win in late October, when a jury in Richland County hit an insurer that he said lowballed his client during settlement negotiations with a \$897,500 verdict, a large chunk of which went toward punitive damages.

And he didn't have to do the egg-and-bucket routine.

He represented James Smith, a 28-year-old military veteran who served in Iraq, in a lawsuit against GEICO, Smith's underinsured motorist carrier. He argued that Smith sustained a back and shoulder injury in a three-vehicle crash on I-26 that led to his medical discharge from the U.S. Army.

Smith had been inside the third car in the crash. Another driver, Joseph Giordano, rear ended a vehicle behind Smith's. The sandwiched vehicle was totaled, unlike Smith's, but its driver was not seriously injured, according to Goings.

He said Giordano, who was found at fault in the accident, failed to appear in court, which prompted GEICO to stand in the defendant's shoes during the trial. GEICO contended that Smith was not hurt in the crash.

"The defenses were the same old fashioned defenses of pre-existing injuries and that the wreck couldn't have been that bad because the car wasn't totaled," Goings said. "It's a typical insurance company defense, and the jury didn't buy it, again."

GEICO's attorney, Anthony Livoti of Columbia, did not respond to an interview request.

Goings had asked the jurors to award Smith about \$157,000 for past and future medical costs and about \$120,000 for two to three years of lost wages, which would give Smith enough time to go to college and acquire the skills he needed to find a new job that was not physically demanding. He had also sought damages for pain and suffering.

Goings had argued that Giordano had been driving recklessly, opening the door for the jury to award punitive damages, which accounted for \$538,000 of the award. The other \$359,000 went toward actual damages.

According to Goings, GEICO had offered to settle the case for \$100,000.

"As long as these insurance companies keep undervaluing auto accident claims I'm going to keep suing them," he said. "They're forcing trials by making lowball settlement offers."

While the verdict may send a message, Goings doesn't expect that Smith will be able to collect the entire award.

GEICO is on the hook for at least \$200,000 of the verdict, which is the limit on Smith's underinsured motorist

coverage. Giordano also had \$25,000 in liability insurance coverage through GEICO.

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PERSONAL INJURY – MOTOR VEHICLE CRASH

Case name: *James Smith v. Joseph Giordano*

Court: Richland County Court of Common Pleas

Date of verdict: Oct. 28

Amount: \$897,500 (\$538,500 punitive damages, \$359,000 actual)

Attorneys for plaintiff: Robert Goings of the Goings Law Firm, Columbia

Attorneys for defendant: Anthony Livoti, Columbia

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