

## \$1 Million Dollar Verdict On Insurance Bad Faith Upheld On Appeal



Tim Dollar

### \$1 Million Verdict

Quinlock Shobe purchased an automobile liability insurance policy from Allstate Insurance Company for her 1988 Dodge Caravan.

In December of 1997, Ms. Shobe began experiencing mechanical problems with her van. An individual offered her an opportunity to purchase a 1992 Ford Aerostar for the amount of \$2,900. The individual allowed Ms. Shobe to test drive the vehicle while he was out of town and she gave him \$500.00. They agreed that if she liked the vehicle, she would pay the remainder of the purchase price. Shobe contacted her Allstate agent to inquire about insurance on the vehicle. Her agent informed her that the vehicle identification number did not match the vehicle, and that she should contact the owner regarding the discrepancy. On January 28, 1998 Shobe was involved in an accident while driving the 1992 Aerostar, resulting in personal injuries to Altha Lott and her children, Tracy and Justin Lott.

The Lotts brought a claim against Shobe through her carrier, Allstate Insurance Company. Allstate denied coverage on the claims and refused to provide a defense to Shobe, claiming that the 1992 Aerostar was

a stolen vehicle. Shobe maintained that she did not know if it was a stolen vehicle, but even so it would still qualify as a non-owned vehicle under her Allstate policy.

The claimants' attorney offered Allstate the opportunity to settle the matter before trial for the policy limits of \$50,000. Allstate refused to settle or provide a defense to Shobe. The claimants prevailed at the trial and a Judgment of \$138,839.25 was entered on July 20, 2000 against Shobe.

On August 18, 2000, claimants filed an equitable garnishment action against Shobe and Allstate. Plaintiffs alleged that Ms. Shobe had permission to drive the Ford Aerostar, that it was not furnished for her regular use, and that Allstate should have provided coverage for the January 28, 1998 accident. Defendant Allstate alleged that the Aerostar was not a "non-owned auto" under the language of the policy in that the vehicle was "available or furnished" for Shobe's "regular use". The trial court determined that Allstate should have indemnified its insured, and were liable for damages in the amount of the policy limits. Judgment was entered in favor of the plaintiffs and against Allstate in the amount of \$50,000 plus interest from July 20, 2000. Allstate appealed.

In its April 13, 2004 decision, the Court of Appeals relied on *Wotjkowski v. Shelter Ins. Companies*, a 1985 Missouri Supreme Court decision in a case involving nearly identical facts and policy language. The Court of Appeals affirmed the trial court's judgment. Allstate paid the \$50,000 policy limits, plus interest, leaving a substantial portion of the original judgment against its insured unsatisfied.

On January 28, 2005, Shobe filed a lawsuit against adjuster Roxanne Kelly and Allstate Insurance Company alleging Bad Faith Insurance Practices.

On April 2, 2007 the case proceeded to trial. Plaintiff argued that the conduct of Allstate Insurance Company and its adjuster, Roxanne Kelly, constituted "bad faith insurance practice" and asked the jury for an award of both actual and punitive damages.

Defendants argued that they acted in good faith because they relied on the advice of counsel in their decision to deny coverage and to not offer a defense. Defendants appealed the verdict and oral arguments were heard by the Court of Appeal, Western District, in November 2008. Allstate Insurance Company paid \$1,210,893.11 (\$1 million verdict, plus court costs and accrued interest) in April 2009.

**Type of Action:** Bad Faith Insurance Practices

**Injuries Alleged:** Exposure to excess judgment; damage to Credit rating; threat of execution and garnishment; obligation for attorney fees

**Name of Case:** Quinlock Shobe vs. Roxanne Kelly and Allstate Insurance Company

**Court:** Circuit Court of Jackson County, MO; Division 16

**Case #:** 0516-CV02409

**Name of Judge:** The Honorable W. Stephen Nixon

**Verdict or Settlement:** Verdict

**Amount:** \$1,000,000.00 (\$500,000 actual damages as to both defendants) (\$500,000 punitive damages attributable to Defendant Allstate)

**Date of Verdict or Settlement:** April 6, 2007

**Last Demand:** \$625,000

**Last Offer:** \$350,000

**Plaintiff's Experts:** Clinton Miller, Claims Consultant, San Jose, CA; Walter Simpson, Attorney, Kansas City, MO; and A.W. Pickel, Mortgage Banker, Overland Park, KS

**Defendant's Experts:** Michael E. McCausland, Attorney, Kansas City, MO

**Insurance Carrier:** Allstate Insurance Company

**Attorney(s) for Plaintiff:** Tim Dollar, Kansas City, MO

**Attorney(s) for Defendant:** Paul Hasty, Overland Park, KS