

## Injured man gets hefty settlement after insurer balks

By: Scott Lauck [scott.lauck@molawyersmedia.com](mailto:scott.lauck@molawyersmedia.com) February 10, 2016

A part-time bookkeeper who was injured after falling at work reached a \$4.825 million settlement with an insurance company after it had initially denied his claim, according to the plaintiff's attorney.

Tom Hershewe of Dollar, Burns & Becker said the plaintiff was injured in 2010 when he slipped and fell while going to the restroom.

The employer maintained workers' compensation insurance and commercial general liability insurance with the same insurance company. According to Hershewe, the plaintiff made a claim under the insured's commercial general liability policy, which denied the claim. The plaintiff subsequently made a claim under the workers' compensation policy.

The insurance company's workers' compensation department contended that the claim was not compensable. The plaintiff then went back to the insurance company's commercial general liability department to make a claim under that policy. The commercial general liability department denied the claim on the basis that the plaintiff was acting in the scope and course of his employment and turned down the plaintiff's policy limit settlement offer.

The plaintiff sued the insured in state court. After the insurance company refused to defend the insured, the court entered a multimillion dollar judgment for the plaintiff.

The plaintiff then filed an equitable garnishment suit against the insurance company seeking recovery of the judgment. The insured filed cross claims against the insurance company alleging bad faith and breach of contract.

The parties agreed to mediate the case and reached a settlement for \$4.825 million.

An attorney for the defendant insurance company couldn't be reached for comment.

### **\$4.825 million settlement**

Personal Injury, insurance

**Venue:** Confidential

**Case Number/Date:** Aug. 20, 2015

**Mediator:** Jack Bangert

**Plaintiff's Attorneys:** Keith J. Schieber, Ferguson & Schieber, St. Joseph (for plaintiff); Tim Dollar and Tom Hershewe, Dollar, Burns & Becker, Kansas City (for insured)

**Defendant's Attorney:** Confidential

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