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Bad faith claim garners \$1.5 million

Jury finds insurance company wrongfully terminated disability coverage.

By Ron Browning
rbrowning@ibj.com

Ralph Bratch was surprised when a Marion County jury awarded his client in an insurance benefits case \$1.5 million, hundreds of thousands of dollars more than she'd sought.

But he was downright shocked moments later when jurors approached Donna Combs in the hallway outside the courtroom and hugged her.

"It's the strangest thing I've seen from a jury in 16 years of practice," said Bratch, of the Indianapolis firm Doehrman Chamberlain. "It was pure emotion in the hallway."

Combs' attorneys had asked the jury for not quite \$1.2 million from Lumbermens Mutual Casualty Co. claiming the Illinois company had breached its contract and breached its duty of good faith and fair dealing with the 50-year-old Indianapolis woman when it terminated her disability benefits.

The verdict, handed down March 27, is one of – if not the – biggest bad faith awards in Indiana history, according to Bratch and his co-counsel Bridget O'Ryan.

It's also by far the biggest reward with which O'Ryan, who operates a two-person firm on Indianapolis' north side, has ever been involved.

"The jury hit them pretty hard," O'Ryan said.

Combs had long-term disability cover-



Photo provided

Ralph Bratch and Bridget O'Ryan pursued a bad faith action rather than seeking punitive damages.

age through her employer, Hancock Memorial Hospital, where she was an X-ray technician.

Combs suffers from rheumatoid arthritis and myelodysplastic syndrome, a group of diseases in which the bone marrow does not make enough healthy blood cells.

The condition causes severe anemia, which leaves Combs fatigued and affects her ability to concentrate. By July 2001, she was forced to take medical leave and

she began receiving disability.

"It was a job she absolutely loved," O'Ryan said. "It was really heartbreaking for her to leave the job."

Lumbermens paid the disability coverage for two years but stopped after an internal review found that Combs was not disabled.

That decision flew in the face of the findings of Combs doctors, who found her to be disabled, as did the Social Security Administration, O'Ryan said.

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The insurance company's internal review consisted of Lumbermens providing doctors in Florida with selected documents and asking if the claimant was disabled, she said.

"They did no independent medical exam whatsoever," O'Ryan said. "They didn't examine her, they didn't talk to her, they didn't talk to her physicians."

The doctors conducting the review couldn't even ask for more information, said Bratch. They were asked to make a decision based on the information the insurance company provided, he said.

"It's a self-fulfilling prophecy," Bratch said. "They set the system up to terminate claims by this lack of information. They controlled the flow."

Not only did Combs lose the money from her disability benefits, but she essentially felt as if she was being told she was lying, O'Ryan said.

"After a while, it became a crusade for her to prevent this type of conduct, this type of harm from happening to anyone else," she said.

O'Ryan filed suit on behalf of Combs in December 2004 and sought the assistance of Bratch. With Indiana law limiting a plaintiff's recovery of punitive damages, the attorneys decided to file Combs' complaint as a breach of contract and bad faith action.

The trial got under way March 20 and lasted five days.

The jury returned its verdict after four hours of deliberation and told the attorneys they wanted to make sure Combs was fairly compensated, O'Ryan said.

"They wanted the insurance company to know they couldn't get away with it with her, and they couldn't get away with it with anyone else," Bratch said.

David F. Schmidt, a Chicago attorney representing Lumbermens, had no comment about the verdict.

The case is far from over.

O'Ryan said the insurance company will appeal, and the parties are still litigating attorney fees allowed under the bad faith action.

Yet O'Ryan said it was nice to hear the jury take up for her client. And it was nice to garner a \$1.5 million verdict, particularly because it was O'Ryan's first ever jury trial.

"I told her that doesn't happen very often," Bratch said. "She's started her litigation career off with a bang."