



No Abuse of Discretion Where Trial Court Awarded \$57,690 in No-Fault Attorney Fees On Jury Award of \$1,453.95

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Foster Swift No-Fault News

February 16, 2010

On February 2, 2010, the Michigan Court of Appeals handed down an unpublished opinion affirming the trial court's award of \$57,690 in attorney fees and \$9,651.67 in costs on a jury verdict of \$1,235 and \$218.94 in penalty interest. *Tinnin v Farmers Insurance Exchange* (No. 286141).

Plaintiff was injured in an automobile accident and sought PIP benefits for medical care (\$1,235) and attendant care (\$90,000). The jury determined that benefits for medical care were overdue, and awarded the full amount plus penalty interest. The jury rejected plaintiff's claim for attendant care. The trial court entered judgment on the verdict, granted plaintiff's motion for attorney fees under MCL 600.5148, and granted plaintiff's motion for taxable costs. The trial court rejected defendant's argument that the attorney fees should be apportioned so that plaintiff was compensated only for the time and effort directly attributable to securing the overdue medical benefits.

Defendant appealed, arguing that the trial court had abused its discretion in refusing to apportion the fee award. The Court of Appeals disagreed: "Because the language of MCL 500.3148(1) does not unambiguously require the apportionment defendant advocates, we hold the trial court did not abuse its discretion in refusing to apportion plaintiff's award of attorney fees."

This case is important not because it heralds a change in the law but because it is such a dramatic illustration that penalties under the Michigan No Fault scheme can be substantially disproportionate to a claimant's actual recovery.

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