

CASE: CIV-10-1237-W, USDC Western District of Oklahoma

Andrew Bundy, *Plaintiff*

v.

Progressive Direct Insurance Company, *Defendant*

JUDGE: Lee R. West

ATTORNEYS: *For the Plaintiff:*
Greg Haubrich and Alex Yaffe
Foshee & Yaffe
Oklahoma City, OK

For the Defendant:
Brad L. Roberson
Pignato Cooper Kolker & Roberson
Oklahoma City, OK

ISSUES: *Breach of Contract (Insurance)*

SUMMARY: Plaintiff brought this case alleging that as a result of injuries received in a January 27, 2007 accident, Defendant had failed to pay pursuant to its underinsured motorist coverage. Plaintiff claimed that although he had received \$30,000.00 from the underlying tortfeasor, his injuries exceeded that amount and that the Defendant had failed to honor its contract of insurance. Plaintiff claimed medical bills in the amount of \$11,669.51 and lost wages in the amount of \$8,007.44. Plaintiff claimed a permanent injury to his thoracic spine as a result of two herniated discs and two disc bulges.

Defendant denied the nature and extent of Plaintiff's injuries, citing preexisting injuries and denied the necessity of treatment. Defendant denied that it was negligent in failing to pay an amount in excess of the previously tendered limits of \$30,000.00.

EXPERT WITNESSES: *For the Plaintiff:*
Dr. Tom Ewing
Norman, OK
Medical Opinion

VERDICT: *Jury Trial*

The Jury found in Favor of the Plaintiff and awarded damages in the amount of \$21,750.00.

The Court then entered judgment in Favor of the Defendant and Against Plaintiff since the Jury verdict amount did not exceed the \$30,000.00 offset from monies Plaintiff had previously received from the underlying tortfeasor's insurance policy.