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## NEWS

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## Trustee reaches \$7M settlement in bad faith insurance case

**Jerome L. Ringler represented plaintiff Jeffrey Golden, a trustee for a nurse who filed for Chapter 7 bankruptcy after a medical malpractice lawsuit resulted in a \$6 million dollar judgment against her. As her trustee, Golden alleged that insurance provider MedPro acted negligently and in bad faith in not settling in a previous instance.**

A Chapter 7 bankruptcy trustee reached a \$5 million settlement with an insurance company in an insurance bad faith case resulting from a 2-year-old child's botched insertion of a tracheostomy tube in a previous case.

Jerome L. Ringler represented plaintiff Jeffrey Golden, a trustee for a nurse who filed for Chapter 7 bankruptcy after a medical malpractice lawsuit resulted in a \$6 million dollar judgment against her. As her trustee, Golden alleged that insurance provider MedPro acted negligently and in bad faith in not settling in a previous instance. Jeffrey Golden, Chapter 7 Trustee v. MedPro Group Inc., 30-2018-01035776 (Orange Super. Ct., filed Sep. 17 2021).

In an interview, the Ringler Law Corp. attorney from Westlake Village said, "The test for whether or not an insurance carrier must accept a policy limits demand is whether at the time the demand was made it was reasonable. An insurance carrier is liable for refusing to pay a policy limits demand if its refusal was unreasonable."

"The evidence here was extraordinarily strong that at the time the policy limits demand for \$1 million was refused by MedPro there was significant evidence reflecting the case had a value well in excess of the policy limits of \$1 million," Ringler said. "This unreasonable refusal to pay the policy on the part of MedPro constituted a clear case of its breach of the obligations of good faith and fair dealing which MedPro pro was obligated to satisfy in the defense of its insured nurse."

MedPro, represented by Steven D. Allison, Jennifer Mathis and Ryan A. Lewis of Troutman Pepper Hamilton Sanders LLP and Dennis K. Ames and Michael J. Doubet of LJ DFA, arrived at a settlement on April 21 for \$5 million before a jury trial scheduled for August. Neither the attorneys nor the company responded to requests for comment.

The child's parents previously sued the nurse and the hospital for medical negligence, and the nurse asked her insurer to pay the policy of \$1 million, but MedPro refused. The case went to binding arbitration, and the plaintiffs were awarded \$6 million. Emma Borges v. Advance Specialty Care, LLC, 30-2016-0083040 (Orange Super. Ct., filed Jan. 15 2016).

"The nurse took an insurance policy for \$1 million. She was working as a nurse at Advance Specialty Care and caring for baby Emma, then 2 years old," Ringler said. "The nurse needed to replace a tracheostomy tube, but in changing the tube the nurse was negligent by failing to extract properly, and the baby suffered brain damage. She became dependent on a breathing ventilator."

In its trial brief, MedPro wrote that the nurse's former employer had already been making stipulated payments to the plaintiff, and argued that it was entitled to an offset of the total verdict based on those payments.

The defense wrote, "What remains in dispute, however, is: the value of the offset to be awarded MedPro for ASC's future periodic payments toward the underlying joint judgment under [the hospital's stipulation] in the event of a judgment against MedPro in this action, and whether MedPro would be entitled to assume the burden of [the nurse's] portion of the unpaid periodic payments set forth in the underlying joint judgment pursuant to Medical Injury Compensation Reform Act."

Ringler wrote in a trial brief that the nurse's negligence was obvious "to any unbiased claims analyst," and that MedPro could have settled in May 2017 before the nurse's policy limits demand expired.

MedPro said in its brief that during the underlying trial, both before and after the arbitration was held, that the parents' counsel, Neil M. Howard of El Segundo, rejected every attempt at settlement. "Howard rejected MedPro's initial settlement offer of \$500,000, or half the MedPro Policy limit of \$1 million, within seven minutes after receiving it."

#367201

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Bay Area on 54 years of advocacy and  
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