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Hurt worker is awarded \$70 million





By Craig Kapitan - Express-News

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A maintenance supervisor who fell with a chain saw while trimming trees at a San Antonio apartment complex six years ago was awarded what appears to be the largest amount of money in a verdict this year in Bexar County, \$70 million, after suing the complex's insurance company.

A Bexar County jury this week found that Charles Tate suffered mental anguish when Discover Property & Casualty Insurance Company delayed paying him for his rehabilitative job training. The jury also found Tuesday that the Connecticut-based company, along with JI Specialty Services, which administered claims for Discover, knowingly engaged in an unfair and deceptive act.

On six occasions, the Texas Department of Insurance's workers' compensation division sided with Tate, who suffered severe neck and shoulder injuries that made manual labor impossible, said his attorney, Thomas Rhodes. The agency ruled that he had a right under the law to have the insurance company pay for him to be retrained as a real estate agent, a career he wanted to pursue.

Of the \$70 million verdict, \$20 million was awarded for past and future mental anguish, \$20 million in attorneys fees and \$30 million in punitive damages.

Gary Hutton, civil court administrator for Bexar County, said he was unaware of a larger verdict being rendered this year.

But Tate's attorney acknowledged Wednesday that it could be years before his client receives compensation. There are still opportunities for state District Judge Peter Sakai, who oversaw the trial, or appellate courts to reduce the amount.

"The appellate system can literally take years," Rhodes said, adding that he believes his client would have a strong case if the verdict was appealed.

Through his attorney, Tate declined to be interviewed.

"I would hope they (insurance company) would listen to this jury," Rhodes said. "I don't know how many times they have to be told. Mr. Tate was genuinely wronged by this company."

Attorneys Patrick Bernal and Ryan Henry, who represented Discover and SI Specialty Services during the two-week trial, did not return repeated calls seeking comment Wednesday.

The decision is not the first time one of Rhodes' cases has received a high-dollar verdict in Bexar County. In 2006, a jury awarded one of his clients \$160 million after finding that a nursing home knowingly paired the client's father with a violent, mentally ill roommate.

That verdict, considered one of the largest in Bexar County, went through the appellate process for three years and was eventually reduced to about \$13 million, Rhodes said.

But Rhodes said it was the principle of the matter rather than the potential for a large payout that motivated his most recent client.

Tate, who had attended more than 180 hours of job rehabilitation classes between surgeries for his neck and back, was accused by the company's attorneys of gaming the system. In reality, Rhodes said, he played by the rules and did everything he was supposed to do.

"The insurance company essentially withheld his benefits in an effort to make him give up," Rhodes said, describing the case as a victory for everyone. "All the time this was going on, he had no way to pay his rent, no way to feed his family. They knew they were putting him in financial peril.

"The insurance companies need to be told they must be fair. Each one of us is at their mercy."

Paying jury awards

Juries sometimes award eye-popping damages to plaintiffs, but the amounts often are reduced by settlements or are dismissed or lowered on appeal. A few recent examples:

2009

The Texas Supreme Court rules in favor of San Antonio, which was sued in 2003 by the family of a 3-year-old diagnosed with leukemia. The family claimed benzene seepage from the city's former landfill caused the illness. A jury ordered the city to pay the family \$23 million, but that was reduced to \$7.64 million, then to nothing on further appeals.

2008

A Houston appellate court overturns a 2005 Angleton jury finding that a 59-year-old triathlete died because of his use of the painkiller Vioxx. Instead of \$26.1 million, the court rules his wife is owed nothing, because there was insufficient evidence to prove the drug caused his heart problem and death.

A Laredo judge reduces a jury's award to \$515,400 from \$725,000 in a sexual harassment suit brought against the city by a female employee.

2006

A San Antonio jury awards \$160 million to the estate of a frail 81-year-old man who died three years after being beaten by his mentally ill nursing home roommate. After a lengthy appeals process, the amount, one of the largest civil judgments ever in San Antonio, was reduced to about \$13 million.

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