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NORTH CAROLINA LAWYERS WEEKLY

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Trial Reports

Negligence

Auto - Wrongful Death - RICO - UDAP - Bad Faith

Type of Case: Decedent killed in head-on collision. Insurer bad faith, refusal to defend.

Type of Injuries/Damages: Death

Age of Plaintiff: 37-years-old at time of death.

Court/Case No.: Estate of Daniels v. Hertz, et al.; Durham County

Awarded/Settled: Summary judgment

Judge or Jury: Judge A. Brannon entered summary judgment

Amount: \$2,115,000

Highest Pre-Verdict Offer: n/a

Other Useful Information: Decedent killed when Hertz rental car driven by an IBM employee crossed center-line and collided with him. Hertz had entered into 'exclusive contracts' with IBM to provide rental cars. Part of contract provision was that Hertz provided \$1 million insurance guarantees on IBM drivers. Despite this, Hertz refused to defend. Case defended by primary carriers. IBM had its own excess carrier, Zurich American. When Hertz refused coverage, Zurich also refused to participate.

When primary carriers paid their limits after summary judgment, plaintiff sued Hertz under RICO, bad faith, UDAP and negligence theories. Judge George R. Greene held a hearing on plaintiff's motion for judgment on the pleadings, and Judge Greene entered a judgment on the pleadings against the defendant Hertz for \$1,000,000. Plaintiff settled with Zurich for \$100,000 with an understanding Zurich to pay an additional \$200,000 if appellate court rules that Hertz can avoid liability.

Insurance Carrier: Zurich American; Colonial Penn; Prudential

Attorney(s) for Plaintiff: Douglas B. Abrams and Jerome R. Trehy Jr., BLANCHARD, TWIGGS, ABRAMS & STRICKLAND, Raleigh; Mark Simeon, Durham; Eric Michaux, MICHAUX & MICHAUX, Durham

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