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FLORIDA JURY VERDICT REPORTER (FJVR)

RITA HILL a/k/a FLORETA YOUNG and LEON HILL, jointly and severally vs.
OCCIDENTAL FIRE & CASUALTY CO. OF NORTH CAROLINA

Docket No.: 2005 CA 000178; FJVR Reference No. 09:7-46

Verdict Date: **November** 13, 2008; Publication Date: **July** 2009

TOPIC: Defense Verdicts - Insurance - Bad Faith

RESULT: For the Defendant. (verdict)

STATE: Florida

COUNTY: Palm Beach

JUDGE: David E. French

PLAINTIFF PROFILE: Rita Hill

Age: 34

Sex: Female

PLAINTIFF ATTORNEY: Joseph R. Fields, W. Palm Beach

DEFENDANT ATTORNEY: Marc M. Greenberg and Paul S. Jones of **Luks, Santaniello**, et al., Boca Raton

Cause Of Injury: Plaintiffs filed a third-party claim against Defendant. The claim arose from a vehicle accident that involved Michael Sonsini and Plaintiff Leon Hill. Mr. Sonsini was insured by State Farm. Plaintiff Leon Hill was the owner of the vehicle involved in the accident with Mr. Sonsini. Plaintiff Rita Hill had applied for and obtained insurance from Defendant for a vehicle driven by and owned by Plaintiff Leon Hill. On January 22, 2005, Plaintiffs Rita and Leon Hill were sued by State Farm for a subrogated claim in the amount of \$ 56,000 arising out of a vehicle accident that allegedly occurred between Michael Sonsini, State Farm's insured, and Leon Hill. Plaintiff Leon Hill was knocked out of the vehicle and awoke in the hospital. The investigating deputy found Plaintiff Leon Hill's insurance card in the totalled vehicle. Plaintiffs alleged that Defendant failed to provide a defense to Plaintiffs after being advised by Plaintiffs of the existence of the lawsuit. As a result of Defendant's failure to provide a defense for Plaintiffs, Plaintiffs had a final default judgment entered against them for \$ 57,000 on June 6, 2005; Plaintiff Leon Hill alleged his commercial driver's license was suspended and that he had to purchase more expensive automobile insurance after the judgment was entered. Defendant disputed coverage for the underlying State Farm claim against Plaintiffs. Defendant claimed that Plaintiff Rita Hill's failure to inform Defendant that she was married on the date of the application for insurance was a material misrepresentation and thus voided the insurance contract. Defendant asserted that based on Plaintiff Leon Hill's prior driving record, Defendant would not have underwritten the policy of insurance because Plaintiff Leon Hill would have been a high risk. Also, if Plaintiff Leon Hill had been included on the policy, the policy premiums would have been higher. Third-party Defendant Occidental offered to settle Plaintiffs' claims for \$ 2,500 on August 4,

2008.

Nature Of Injury: Damages for failure to defend lawsuit from vehicle accident under provisions of insurance policy provisions; costs for higher insurance premiums incurred; attorney's fees and costs of litigation.

Editor's Note: This was a two-day trial. The jury was composed of three males and three females. The jury deliberated for approximately forty minutes. On February 13, 2009, a settlement agreement was signed by the parties in response to Plaintiffs Motion for Judgment Notwithstanding the Verdict or New Trial. By joint stipulation, an order of dismissal with prejudice was entered on February 26, 2009.