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## Jury awards \$3.5 million to couple

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Setting a record here for civil judgments, a Mobile County Circuit Court jury Thursday awarded more than \$3.5 million in damages to a local couple who sued Aetna Life Insurance Co. for allegedly showing bad faith in refusing to pay a hospitalization claim of \$1,650.

After a 3½-day trial and an hour of deliberation, the jury returned with a verdict in favor of Margaret and Robert Lavoie Sr. and against Aetna in the amount \$3,501,650.22 — \$3.5 million in punitive damages and \$1,650.22 in compensation, the latter the amount Aetna refused to pay on Mrs. Lavoie's claim.

The case involved a new principle of law in which a plaintiff may recover punitive damages if a defendant shows bad faith in a contractual relationship. Before a landmark Alabama Supreme Court decision in 1981 stemming from pretrial pleadings in both the

Lavoie case and another Mobile case, a plaintiff could only win compensation for his actual losses as a result of the defendant's bad faith.

Punitive damages are designed to punish a defendant for his actions.

According to legal sources, the jury award in the Lavoie case is the largest judgment statewide in the new area of a bad faith claim, topping a \$3.2 million judgment won in federal court in Birmingham.

Aetna may appeal either the size of the award or the verdict itself, and the trial judge, Michael E. Zoghby, or an appeals court could reduce the award or set aside the jury's verdict.

Before Thursday, the largest jury award in Mobile County Circuit Court was \$2.5 million won last year in a medical malpractice case stemming from a child's death during a heart operation.

The Lavoies' attorney had told the jury this week he would ask for more than a million dollars in punitive damages even though Mrs. Lavoie's claim was for much less. He said he thought the circumstances surrounding Aetna's refusal to pay a portion of the woman's hospitalization claim would justify such a verdict.

"We think the evidence will give you the courage to return a verdict which we think is just ... and which will hopefully stop this from happening again," the plaintiffs' attorney said.

Aetna's attorney argued that the insurance company was ready to pay Mrs. Lavoie's reasonable medical expenses but concluded through its medical department that her 23 days' hospitalization in February 1977 was excessive and unnecessary in view of her concluding diagnosis of mild arthritis.

The Lavoies' attorney called the Aetna medical department a

"rubber stamp" for claims adjusters.

According to the Lavoies' complaint, Aetna refused to pay \$1,650.22 of her \$3,028 claim for a stay in Mobile Infirmary despite the couple's cooperation in providing reams of documentation that her doctor deemed the hospitalization necessary.

As a result of Aetna's "reckless, wanton, malicious, oppressive and outrageous conduct," the suit charged, the Lavoies suffered "emotional distress, much embarrassment, humiliation and sleeplessness" and damage to their credit and reputation.

The lawsuit also alleged Aetna breached its "implied duty to deal in good faith in its contractual relationships."

Lavoie, a city of Mobile employee, and his wife were covered under a group health and medical insurance policy from Aetna.