



Defense Lawyers
Association

July 2016 Verdict

Submitted By Courtenay L. Keller & Tyler J. Bates
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Court State Court

County Bernalillo County

Judge The Honorable Alan Malott

Defense Counsel Courtenay L. Keller & Tyler J. Bates

Plaintiff Counsel James C. Ellis & Daniel Estes

Trier 12 Person Jury

Style *Mike Faris Auto Sales et al. v. C.M. Dziak et al.*; D-202-CV-2012-10329

Statement of Facts Mike Faris Auto Sales sued insurance agent C.M. Dziak and Associated Insurance Professionals, Inc. for negligence, breach of contract, and violation of the Unfair Practices Act. Faris alleged he was damaged by Dziak and his agency's failure to procure "the correct" insurance coverage in 2011.

This case arose from an underlying lawsuit against Faris. In 2011 Mike Faris Auto Sales sold a used truck to Erica Towne. Towne later sued Faris alleging Faris failed to disclose prior damage to the truck. Faris hired and paid counsel to defend the Towne lawsuit, and paid to settle the lawsuit. Faris then sued his insurance carrier, Colony Insurance Company, for failure to defend and indemnify him in the Towne lawsuit. Colony moved for and received a declaratory judgment that there was no coverage under Faris's 2011 garage liability policy. Faris then sued his insurance agents.

In the lawsuit against Dziak and Associated, Faris claimed Dziak and Associated led Faris to believe he was covered for customer lawsuits alleging failure to disclose prior damage. Dziak and Associated argued Faris never requested such coverage, they never led Faris to believe he had it, and Faris knew he did not have it. Defendants also argued Faris's claim that he wanted such coverage was contrived and belied by his own conduct.

Verdict Defense

Experts Garth Allen – Plaintiffs' expert.
Robert Pratte – Defendants' expert.
