

Auto Negligence - As the plaintiff was in the midst of testifying, the trial court granted a directed verdict to dismiss the case as the plaintiff had failed to quantify his damages in CR 8.01(2) interrogatories

Biggs v. Robinson, 14-435

Plaintiff: Sam Whitehead, Lexington
 Defense: Joshua J. Leckrone and Ben Harris, *Walters Meadows Richardson*, Lexington

Verdict: Directed verdict (*Fratzke*)

Court: **Boyle**, J. Peckler,
 1-22-18

Timothy Biggs was stopped in traffic on 1-13-15 at the intersection

of the Danville Bypass and Lebanon Road. Adam Robinson was behind him in traffic. Robinson recalled a phantom vehicle rear-ended him – this caused Robinson’s foot to slip off the gas pedal and he rolled into the Biggs vehicle.

The collision resulted in very minor damage. Robinson, in fact, only struck a wheelchair lift on the rear of the Biggs vehicle. Biggs’s wife relies on the lift.

However it happened, there was a wreck and Biggs has since treated for soft-tissue injuries. That included a course of physical therapy. His injuries were confirmed by Dr. Thomas Menke, Orthopedics. Robinson disputed the injuries and pointed to a history of a prior injury event Biggs sustained when he was working as a physical therapist.

The case advanced to trial and the attorney for Biggs gave his opening argument to a Danville jury. Robinson then moved to dismiss the case (pursuant to *Fratzke*) as Biggs had not quantified his damages. He had merely responded to interrogatories that “damages will be requested.”

Biggs had filed a “Motion to Stipulate” which listed medical bills of approximately \$4,500. However that sum was still below the court’s \$10,000 jurisdictional limit.

Judge Peckler took the motion under advisement and Biggs began to testify. Some 20 minutes into his direct examination and discussing his medical bills, the court revisited the motion. The court took a recess to chambers and granted the motion to dismiss. He held that as Biggs could only prove \$4,500 in damages at most, the claim was below the court’s jurisdictional limit.

Judge Peckler returned to the courtroom and with Biggs still on the witness stand, the case was dismissed and the jury released. A defense judgment has been entered.