

MELODY NAEGEL et al.

v.

PROGRESSIVE CASUALTY INSURANCE COMPANY

Submitted on Briefs June 26, 2003

Decided July 17, 2003

Panel: SAUFLEY, C.J., and CLIFFORD, RUDMAN, DANA, ALEXANDER,
CALKINS, and LEVY, JJ.

MEMORANDUM OF DECISION

Melody and Stephen Naegel appeal from a judgment in favor of Progressive Casualty Insurance Company entered in the Superior Court (Hancock, *Hjelm, J.*), denying their attempt to collect under the provisions of the underinsured motorist coverage in their policy issued by Progressive. The court concluded that the Naegels failed to prove damages in excess of \$50,000, the amount that the Naegels previously recovered from the party causing the motor vehicle collision that resulted in injuries to Melody Naegel. Contrary to the Naegels' contentions, the Superior Court did not err in its factual findings that the diagnosis of Melody's injuries was not sufficiently reliable within the meaning of M.R. Evid. 702 for the

court to give it meaningful weight, and the treatment prescribed for Melody, and undertaken by her, based on that diagnosis was not reasonable. *See State v. Williams*, 388 A.2d 500, 503-04 (Me. 1978). The court, in its well-reasoned decision, properly applied the Maine standard for admitting scientific evidence addressed in *Williams*, and its conclusion that the Naegels failed to prove entitlement to recover from Progressive was not error. *See id.* at 504.

The entry is:

Judgment affirmed.

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