



Case Study

**Issue Preclusion: Arbitration's About PIP Benefits**

— by Jennifer Krumm

*Barackman v. Anderson, \_\_\_ Or. App. \_\_\_ (2/18/04)*

Plaintiff claimed that she injured her teeth during an automobile accident. She sought personal injury protection (PIP) benefits from her insurance company, who denied her claim. The claim went to arbitration, and the arbitrators concluded that Plaintiff had not injured her teeth during the accident.

Plaintiff then filed a lawsuit against the other driver, again claiming that she had injured her teeth during the accident. The other driver argued that the Plaintiff could not recover for injured teeth because the arbitrators had already concluded that her teeth were not injured as a result of the accident. Plaintiff responded that PIP arbitrations do not have preclusive effect.

The court disagreed with the Plaintiff. It held that PIP arbitrations do have preclusive effect. Accordingly, the plaintiff could not argue that she injured her teeth in the accident because that issue had already been decided. ❖

— Full case available at <http://www.publications.ojd.state.or.us/A112472.htm>.

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