Progressive Insurance:
Paying a Lawyer to Defend Your Sister’s Killer

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"My Sister Paid @Progressive Insurance To Defend Her Killer In Court."

New York comedian Matt Fisher turned serious when he used that twitter message to introduce a link to the most recent entry on his Tumblr site. The message and link went viral immediately, triggering 9,000 people over a three-day span to post on twitter about Matt’s experience with Progressive Insurance Casualty Company. Progressive, who insured Matt’s sister, Katie, when she died in a car accident two years prior, now faces the ultimate social media nightmare: Twitter outrage turned mainstream news.

The Accident

Kaitlynn Fisher, called Katie by her family, who had recently earned two degrees from Johns Hopkins University, was killed on June 19, 2010 at 7:00 PM while driving northbound through a Baltimore, MD intersection. Ronald Kevin Hope III was heading eastbound through the intersection when he collided into the driver’s side door of Katie’s Honda Insight. The impact as his Ford Explorer struck into Katie’s door pushed the hybrid vehicle onto a curb and into a light pole. Katie died shortly after arriving at Johns Hopkins University Hospital. She was 24 years old.2

Baltimore Police Department’s crash reconstruction expert claimed that Katie ran the red light. The Fisher family and Allen Cohen, the family’s attorney, questioned this assessment, claiming that the expert did not witness the accident and relied too heavily on the accounts given by Ronald Kevin Hope III and Katie’s passenger, who had just suffered brain damage and a skull fracture. Obviously, Katie was not able to give her account. The Fisher family, therefore, pointed to the only written eyewitness statement given on the day of the accident, from an independent third-party driver, who while stopped at the intersection witnessed Hope running a red light.5

Automobile Insurance

When fault is in dispute, Insurance companies will evaluate the unique facts and circumstances of the claim to estimate their exposure if the case went to trial. Often, even in cases of questionable liability, Insurance companies will attempt to settle outside of court if doing so is more advantageous than litigation. After the accident in 2010, both drivers’ insurance companies paid settlements. Hope’s insurance company, Nationwide, paid the Fisher family $25,000, the full amount of Hope’s liability insurance limits. Progressive paid out over $100,000 in liability claims under Katie’s main insurance policy to Katie’s estate, Katie’s passenger, and Ronald Hope III.7

Katie’s insurance policy had multiple provisions. Under her main insurance policy, Katie can recover certain losses up to the policy limit, regardless of fault. If Katie were found at-fault, her main insurance policy would pay out certain losses up to the policy limit to any injured parties. Conversely, if the other driver is found at-fault, Katie could recover certain losses from the other driver’s insurance company. However, the other driver’s insurance coverage may not be enough to cover the full amount of losses. Katie’s policy
with Progressive carried a protection against this circumstance, called underinsured motorist coverage.8

**Underinsured Motorist Coverage**

Underinsured motorist coverage provides compensation to the injured party of a car accident when the “at-fault” party lacks sufficient insurance coverage to compensate the injured party in full for his or her injuries. The at-fault driver is deemed an “underinsured motorist” if the at-fault driver’s insurance coverage is lower than the limits of the injured party’s underinsured motorist coverage. Thus, Ronald Hope III is considered an underinsured motorist.

Faced with significant student loans from Katie’s undergraduate and graduate engineering degrees from Johns Hopkins University, the Fisher’s sought additional relief from Progressive under Katie’s underinsured motorist coverage.9 Katie’s policy with progressive carried $100,000 worth of underinsured motorist coverage.10 Thus, the difference between Hope’s $25,000 policy and Katie’s underinsured motorist coverage left $75,000 for the Fisher family to recover under the policy. However, under Maryland law, in order to receive the benefits of an underinsured motorist claim, it must be determined that the other motorist be “at-fault.”11 Maryland state law also uses contributory-negligence for automobile accidents in cases involving underinsured motorist coverage, meaning Katie is barred from any recovery if she is found even 1% at-fault for the accident.12 Progressive refused to pay the Fisher family the underinsured motorist claim, citing that the 100% liability requirement was not proven.13 However, Progressive did attempt to settle the case with the Fisher family numerous times, but according to Matt Fisher, never offered more than 1/3 of the full $75,000.14

**The Lawsuit**

The Fisher family ultimately rejected Progressive’s settlement offers in favor of proving that Ronald Hope III was 100% at fault and that Katie’s estate was entitled to the full $75,000 of the underinsured motorist claim. The Fisher family decided that the only way to prove who was “at-fault” was to sue Ronald Hope III in court. The Fisher family hoped that if a court ruled in favor of Katie, they could use that ruling as leverage to force Progressive to pay the full-underinsured motorist coverage.15

On Monday, August 6, 2012, the trial commenced with attorney Allen Cohen representing the plaintiff, Katie’s estate, and Nationwide Insurance attorney Robin Gessler representing the defendant and its insured, Ronald Hope III.16 Under Maryland state law, the insurance company providing underinsured motorist coverage may participate in the trial to represent its own interest in the case.17 Progressive Insurance decided to participate in the trial as an “Interested Party” and was granted an allowance “to intervene as a party Defendant.”18 Progressive’s Insurance attorney, Jeffrey Moffat, sat with the Nationwide Insurance attorney at the Defendant’s table throughout the duration of the trial.19
After four days of trial, a jury determined that Ronald Hope III was at-fault in the accident and that Katie had the green light. The jury ruled in Katie’s favor and awarded the Fisher family $760,000 in damages, $100,000 of which to be paid by Progressive.  

**Matt Fisher’s Tumblr Site**

Early on Monday August 13, 2012, around five days after the jury ruling, Progressive had yet to settle the case with the Fisher family. Matt Fisher took to his Tumblr site to detail his family’s dealings with Progressive Insurance and his experiences at trial.

In his post, he concedes that although he never discounted the possibility that Katie was at fault in the accident, he believes the facts always appeared to be on his sister’s side. He bolsters his belief pointing to Nationwide’s quick settlement and to the fact that the only witness who gave a written statement on the day of the accident claimed that Ronald Hope III ran the red light. He explains that his anger with Progressive was not due to questions of fault, but rather Progressive’s adversarial role in the process of determining fault. He writes:

“Carrying Progressive insurance and getting into an accident does not entitle you to the value of your insurance policy. It just pisses off Progressive’s lawyers. Here I address you, Prospective Progressive Insurance Customer: someday when you have your accident, I promise that there will be enough wiggle room for Progressive’s bottomless stack of in-house attorneys to make a court case out of it and to hammer at that court case until you or your surviving loved ones run out of money.”

Mr. Fisher continues:

“At the trial, the guy who killed my sister was defended by Progressive’s legal team.

If you are insured by Progressive, and they owe you money, they will defend your killer in court in order to not pay you your policy.

{Omit} As it happens, the jury did find that the other driver was negligent, which, if justice or decency are priorities for Progressive, will result in them finally honoring Katie’s policy. At this point, I hope you’ll forgive me if I wait for it to actually happen. Don’t buy insurance from Progressive. Not only will you be paying the salaries of people who put my family through the wringer (really a smaller wringer that Progressive attached to the main wringer of my sister’s death), but also when the chips are down, your money will have bought you nothing but a kick in the face.”

**Progressive’s Response**

Social media outrage over Matt Fisher’s Tumblr post quickly found its way to Progressive’s main Twitter account. Progressive’s first public response to the growing outrage came late Tuesday morning through a twitter reply:
“This is a tragic case, and our sympathies go out to Mr. Fisher and his family for the pain they’ve had to endure. We fully investigated this claim and relevant background, and feel we properly handled the claim within our contractual obligations. Again, this is a tragic situation, and we’re sorry for everything Mr. Fisher and his family have gone through.”

Over the next few minutes, Progressive responded to over a dozen twitter users using the exact same message, until Twit Longer (an app used by Progressive to send tweets of more than 140 characters), closed Progressive’s account, stating the tweets were spam. Although pictures and the first names of eleven Progressive customer service representatives, identified as “Our twitter team,” lined the top of Progressive’s main twitter page, each tweet before the account was closed came from the @Progressive handle with the same smiling picture of “Flo,” Progressive’s fictitious spokesperson.

The automated and repetitive twitter response further enflamed social media outrage. The story reached new heights of viewership when Will Wheaton, a science fiction actor and wildly popular social media magnet, tweeted a screen shot picture of Progressive’s Twitter page and ran the repetitive tweets through text-to-speech software, producing a satirical robotic voice. He tweeted, “Just in case you were wondering if @Progressive is actually run by an evil robot with zero compassion.” More than 21,000 people listened to his robotic recording.

General Claims Manager Chris Wolfe took to Progressive’s official blog a few hours later to publish Progressive’s first personalized response to the growing social media backlash. Chris offers in his blog entry, “To be very clear, Progressive did not serve as the attorney for the defendant in this case. He was defended by his insurance company, Nationwide.” However, the blog entry did little to stem the tide of social media outrage that reached a fever pitch when Matt Fisher took to his Tumblr site again to respond to Chris Wolf’s post:

“At the beginning of the trial on Monday, August 6th, an attorney identified himself as Jeffrey R. Moffat and stated that he worked for Progressive Advanced Insurance Company. He then sat next to the defendant [the other driver]. During the trial, both in and out of the courtroom, he conferred with the defendant. He gave an opening statement to the jury, in which he proposed the idea that the defendant should not be found negligent in the case. He cross-examined the plaintiff’s witnesses. On direct examination, he questioned all of the defense’s witnesses. He made objections on behalf of the defendant, and he was a party to the argument of all of the objections heard in the case. After all of the witnesses had been called, he stood before the jury and gave a closing argument, in which he argued that my sister was responsible for the accident that killed her, and that the jury should not decide that the defendant was negligent.

I am comfortable characterizing this as a legal defense.”
**From Social Media to Mainstream News**

Unlike traditional media platforms that allow any reader to openly comment on a story, Tumblr offers the reader an opportunity to react to blog posts only after they re-share the content on their own Tumblr page. Thus, when a Tumblr reader feels moved to comment on an item, the story is automatically shared with that reader’s entire personal network. Matt Fisher’s Tumblr post garnered 11,000 “shares” by Thursday, broadcasting his story across 11,000 different social networks.30

Fisher also actively used his twitter account to keep his 2,000 followers informed as the story gained attention.31 He shared with his Twitter follower’s pictures of his sister and fond personal stories of their relationship.32 He also notified them when he joined a national radio program to talk about the story. When Chris Wolfe’s statement that Progressive did not serve as Ronald Hope’s attorney contradicted Fisher’s account, Fisher used Twitter to link his Tumblr response.

By the end of the week, Matt Fisher’s story about Progressive transcended social media outlets and was featured on CNBC, “CBS This Morning” and the Glenn Beck radio show, as well as making print and digital headlines with NBC, ABC, the Wall Street Journal, and other major news outlets.

**Progressive Insurance**

Attorneys Joseph Lewis and Jack Green started Progressive Mutual Insurance Company in 1937. Progressive credits their early growth to innovative practices such as offering drive-in claims service, allowing customers to pay their premiums in installments, and insuring high risk drivers when no one else was interested.33 Peter B. Lewis took over his father’s company in the 1960’s and grew it into a national brand. He advanced and galvanized Progressive’s reputation for innovation by becoming the fastest and most efficient place for customers to get an insurance policy in the 1990s. Progressive was also the first company to sell insurance online, launch a 24-hour customer service phone line, and even offer its customers quotes from competitors. In addition to innovative practices, Progressive also espouses a list of Core Values that guide company operations. “Integrity” and the “Golden Rule” headline the list, with captions explaining Progressive’s policies to “encourage disclosing bad news,” “revere honesty,” and deal with people in the way “we want to be dealt with.”34

Under the younger Lewis’ leadership, Progressive became one of Cleveland’s largest employers and one of the largest insurance companies in the United States with 27,000 employees nationwide (Rab). At the time of the Fisher incident in 2012, Progressive had 13 million policyholders, 700,000 of which were added within the year.35

**Recent Controversy**

Progressive has faced other highly visible controversies and criticisms. In 2000, Peter Lewis maintained an “absolutely no comment” approach to the media and his
company after he was arrested in Australia for possessing marijuana and marijuana paraphernalia. Further, in 2007, Progressive apologized and was sued for hiring two detectives that infiltrated and taped private communications within a support group at a Christian church in Georgia to gain more information about two parties in an automobile accident investigation. Finally, in response to the wide dissemination of the Fisher story, scores of spurned Progressive customers have flooded the Internet with their own unique critical experiences with Progressive. Twitter alone collected 9,000 different user comments on the Fisher story from August 13 and August 16, resulting in 1,100 people claiming to have dropped Progressive as their insurer and 3,900 people claiming to have negative feelings towards Progressive.

Insurance Companies' use of Social Media

Building networks and managing a good reputation have long been essential in the insurance industry. Many insurance companies have embraced social media’s extraordinary potential to increase exposure, enhance familiarity, form relationships, and garner trust with consumers. The general consensus is for insurance companies not to use social media to overtly market a product, but to use the medium to share information and form relationships based upon trust, which in turn generates new customers.

Insurance companies are also using social media to discover worker’s compensation fraud, inform and communicate with customers after catastrophic events, act as a customer service tool, and manage public relations crises. In fact, The Social Media Working Group of the National Association of Insurance Commissioners offers social media as a potentially much more effective tool for a public relations crisis than traditional advertising because it shares “information in much smaller pieces that can speak directly to a consumer’s needs and in a language that is much more meaningful to the average consumer.”

Despite its growth in the insurance industry, there are still a significant number of companies that have disregarded or even banned the use of social media in connection with their business. The reasons for this approach are plenty. Novelty and lack of familiarity with the medium, the absence of clear legal and regulatory guidance, and other practical and technical issues present uncertainty and too great a risk for some Insurance companies. The Social Media Working Group suggests, however, a Company’s reputation amongst consumers will be affected by its participation, or lack their of, in social media outlets.
DISCUSSION QUESTIONS

1. Was Progressive’s response on social media an adequate response to the outrage?

2. What is the long-term effect of social media on Progressive’s legal decision making?

3. What is the long-term effect of social media on Progressive’s ethical decision making?

4. What is the long-term effect of social media on Progressive’s economic decision making?

5. What role does social media play into the communication strategy?

6. What can Progressive do to regain trust with customers?
Appendix A: Matt Fisher Twitter Post

Matt Fisher
@fishermatt

My Sister Paid @Progressive Insurance To Defend Her Killer In Court:
mattfisher.tumblr.com/post/293384782...

My Sister Paid Progressive Insurance to Defend Her...
By Matt Fisher @fishermatt

My Sister Paid Progressive Insurance to Defend Her Killer In Court I’ve been sending out some impertinent tweets about Progressive Insurance lately, but I haven’t explained how they pissed me off....
Appendix B: Katie Fisher’s Automobile
Appendix C: Progressive Twitter Response

**Progressive @Progressive**
2m
@web This is a tragic case, and our sympathies go out to Mr. Fisher and his family for the pain they've had (cont) tl.gd/iquffv
Expand

**Progressive @Progressive**
3m
@toplessrobot This is a tragic case, and our sympathies go out to Mr. Fisher and his family for the pain (cont) tl.gd/iquf4k
Expand

**Progressive @Progressive**
14m
@jakeandamir This is a tragic case, and our sympathies go out to Mr. Fisher and his family for the pain (cont) tl.gd/iquabj
Expand

**Progressive @Progressive**
15m
@JEFSantaMonica This is a tragic case, and our sympathies go out to Mr. Fisher and his family for the pain (cont) tl.gd/iqu9v2
Expand

**Progressive @Progressive**
25m
@sarahw This is a tragic case, and our sympathies go out to Mr. Fisher and his family for the pain they've had (cont) tl.gd/iqu5gg
Expand

**Progressive @Progressive**
26m
@elzaskinner This is a tragic case, and our sympathies go out to Mr. Fisher and his family for the pain (cont) tl.gd/iqu545
Expand

**Progressive @Progressive**
28m
@realjohngreen This is a tragic case, and our sympathies go out to Mr. Fisher and his family for the pain (cont) tl.gd/iqu4ft
Expand

**Progressive @Progressive**
31m
@wilw This is a tragic case, and our sympathies go out to Mr. Fisher and his family for the pain they've had (cont) tl.gd/iqu3et
Expand


9 Ibid.


11 Ibid.

12 Ibid.


15 Ibid.


Ibid.

Ibid.