

Minnesota Court Declares First-Party

Bad Faith Test While Affirming Bad

Faith Judgment Against Insurer

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Peterson filed an underinsured motorist claim against her UIM carrier, Western National, which had a \$250,000 policy limit. After a series of migraine headaches caused by her whiplash injury, she started receiving periodic Botox injections to help her manage those headaches. Her insurance company made a series of “low ball” settlement offers after she settled the liability claim for \$45,000 of the \$50,000 limit of the tortfeasor’s policy. She then went to trial and obtained a unanimous verdict for over 1.4 million dollars, \$900,000 of which were for past and future medical expenses. She then proceeded to trial on her first-party bad claim which resulted in the trial judge entering an award for \$100,000 plus nearly \$98,000 in attorneys’ fees. That bad faith judgment was affirmed by the court of appeals after holding, as a matter of first impression, that an insurer must conduct a reasonable investigation and fairly evaluate the results in order to have a reasonable basis for denying a first-party insurance benefits claim.

The Minnesota first-party bad faith statute, §604.18 subd. 2(a), provides a two part test for a trial court to determine whether a discretionary penalty should be imposed for an insurance company’s “unreasonable denial of a first-party insurance claim.” After finding the statute ambiguous on its face, the court looked to the law of other states, including Wisconsin, as well as to Minnesota legislative history before finding that “an insurer must conduct a reasonable investigation and fairly evaluate the results to have a reasonable basis for denying an insured first-party insurance-benefits claim. If, after a reasonable investigation and fair evaluation, a claim is fairly debatable, an insurer does not act in bad-faith by denying the claim.”

After adopting that test, the court then reviewed the district court's finding that Western National did not have a reasonable basis for denying the claim. In arriving at that conclusion, the court of appeals found that the insurer did not produce any evidence "of a reasonable evaluation during that eleven-month time period to develop a reasonable basis to delay or deny [Peterson's] claim." The majority summarized the district court's findings that the insurer "(1) delayed settling or denying Peterson's claim for nearly a year without properly investigating her claim, (2) ignored Peterson's evidence supporting her claim, (3) prepared a claims summary that misstated significant facts, and (4) failed to evaluate and weigh the competing medical opinions." The majority concluded that those findings were not abuses of discretion and thus found that the first prong of the test was satisfied.

The second prong was also satisfied by findings that the insurer "made no settlement offer for more than a year after [Peterson] presented her claim, and its eventual settlement offers were based purely on nuisance value, not on a reasonable evaluation of the merits of [Peterson's] claim." The district court also found that the insurer had concluded it had a 100% probability of likelihood the company would defeat Plaintiff's claim and 0% probability that she would recover her claim. The trial court found that conclusion "recklessly ignored and disregarded facts that, properly evaluated, would have resulted in at least some probability of success being assigned to [Peterson's] position." The court of appeals majority concluded that that finding was not an abuse of discretion either. Accordingly, the court affirmed over a vigorous dissent.

The Peterson case is important for Minnesota bad faith attorneys and insurance professionals handling Minnesota first-party bad faith claims. It declares the test for finding first-party bad faith in Minnesota and provides an outline for handling first-party claims in Minnesota.

Case: Peterson v. Western National Mutual Insurance Company

Cite of Case: 2019 Westlaw 2332400 (App. Ct. Minn. 2019)