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BAD FAITH BLOG

Georgia Court of Appeals Reiterates that a Verdict Significantly Exceeding the Policy Limits, Alone, Is Not Bad Faith Conduct

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The Georgia Court of Appeals affirmed summary judgment for GEICO and held that there was no evidence of a frivolous and unfounded refusal to pay its insured's demand for the $25,000.00 limit of her underinsured motorist policy, which was needed to support a bad faith claim brought under Ga. Code Ann. § 33-7-11(j) (failure to pay within sixty days of demand). The court found that GEICO timely and thoroughly investigated the claim upon receipt of the demand letter. A later jury verdict against the underinsured motorist greatly exceeding the $25,000.00 policy limit alone was insufficient to establish that an insurer acted in bad faith. The case reiterates that timely and thorough investigation of a claim based on all facts presented, along with a proper response, should help reduce bad faith concerns even when there are subsequent events out of the insurer's control, such as a large jury verdict.

The insured was involved in an automobile collision. The at-fault party's insurer tendered the limits of his policy, $25,000, in exchange for the insured signing a limited release of the driver's liability.

Following this release, the insured sent a demand letter to GEICO under Ga. Code. Ann. § 33-7-11, and demanded the full $25,000 in coverage under his underinsured motorist policy. GEICO began its investigation the same day it received the letter, and less than three weeks later, GEICO contacted the insured's attorney and offered $750 to settle. The insured made no counteroffer and refused to negotiate further with GEICO. A few days after the rejection of this offer, the insured filed suit against the at-fault driver to establish the amount of her damages. This case proceeded to trial twenty months later, and a jury awarded the insured over $120,000. Based on that award, GEICO paid its $25,000 policy limits.

After GEICO paid the policy limits, the insured filed a bad faith claim, asserting that GEICO's failure to pay the policy limits within 60 days of her demand letter constituted bad faith as a matter of law. GEICO responded that there was no evidence that its refusal to pay the policy limits was made in bad faith or was otherwise frivolous or unfounded. Rather, the facts showed GEICO had contacted the insured's employer to determine her lost wages, requested a recorded statement, thoroughly reviewed the medical records, and inputted the information into GEICO's claims software program. The approximately $19,000 in special damages discovered in the investigation, combined with the program's $4,000-$6,000 range of special damages, resulted in a range of $23,590 - $26,590 in total damages. After subtracting the $25,000 already received from the at-fault driver's insurer, GEICO arrived at a settlement range of $0 - $1,590. Under the facts presented, GEICO did all that it could to properly handle the claim; the insured failed to identify anything else that GEICO could have done.

Notwithstanding GEICO's investigation, the insured argued that because the jury awarded her significantly more than $25,000, this award proved that GEICO's failure to pay within 60 days was bad faith as a matter of law. The court noted that no case was cited to support this argument, and her argument was mere speculation and conjecture and insufficient to create a jury issue. The court also noted the absence in the record of the evidence presented at trial. Indeed, the court noted that a deposition excerpt relied on came from a deposition long after GEICO evaluated the case and made its offer. The trial court properly granted summary judgment for GEICO, because there was no evidence showing that it acted in bad faith.

This case serves as a good reminder that a prompt and thorough investigation of a claim and a claim evaluation based on all available information can often defeat a bad faith claim. That is true even if subsequent events beyond the insurer's control can be used to create an argument for bad faith, such as a large excess jury verdict.

Case citation: *Taylor v. Gov't Employees Ins. Co.*, 830 S.E.2d 235 (Ga. Ct. App. 2019)