



BAD FAITH BLOG

Insured Cannot Circumvent Unfair Insurance Practices Act in California

AUTHOR: SANDBERG PHOENIX

Summary: The District Court dismissed Plaintiffs' claims for negligence, negligent infliction of emotional distress and unfair business practice in violation of the California Unfair Competition Law statute. The District Court held that the Unfair Competition Law ("UCL") claim was legally barred because it attempted to enforce a provision of the Unfair Insurance Practices Act ("UIPA") that does not give rise to a private cause of action. The District Court also held that California law does not allow negligence claims to be asserted against insurers relating claims handling.

Bates v. Hartford Life and Accident Insurance Company, 765 F.Supp.2d 1218 (C.D. Ca. 2011)

Roberta Bates, the mother of the Plaintiffs, purchased an individual accidental death and dismemberment (AD&D) insurance policy from Hartford. The Plaintiffs were designated as beneficiaries on the AD&D policy. Bates tripped and injured herself which ultimately led to her death.

Following their mother's death, Plaintiffs submitted a claim to Hartford and were notified that Hartford had denied their claim for benefits under the policy. The court did not explain the reasons for the denial. Plaintiffs then filed suit alleging: (1) bad faith and breach of the implied covenant of good faith and fair dealing; (2) breach of contract; (3) negligence; (4) negligent infliction of emotional distress; and (5) violation of California's UCL. Hartford moved to dismiss Plaintiff's negligence, negligent infliction of emotional distress, and UCL claims.

Hartford argued the UCL claim was legally barred because it attempted to enforce a provision of California's UIPA, which does not give rise to a private right of action. The District Court agreed with Hartford. Plaintiffs' claim under the UCL alleged that Hartford failed to reasonably investigate Plaintiffs' claims and issued a claim denial without any basis. The District Court found these claims were covered by the UIPA; therefore, there was no private right of action and District Court dismissed Plaintiffs' claims based upon the UCL.

The District Court also dismissed Plaintiffs' negligence and negligent infliction of emotional distress claims. Plaintiffs admitted they could not support a cause of action for negligence against an insurer on the basis of a denial of an insurance claim. In California there was no independent tort of negligent infliction of emotional distress based upon that conduct. Instead, the tort is negligence and the damages are possibly due to emotional distress and may be recovered incidental to a bad faith action. Therefore, the District Court dismissed Plaintiffs' claims based upon the negligent infliction of emotional distress because California does not recognize such an action against an insurance company.

However, the District Court denied Hartford's motion to strike Plaintiffs' claim for punitive damages. The District Court found Plaintiffs had pleaded the claim with sufficient particularity.

The District Court reaffirmed California's law barring a private right of action based upon UIPA even when creative Plaintiffs' counsel attempts to circumvent the UIPA by bringing suit based upon other California statutes. Moreover, the District Court reaffirmed that California does not recognize negligence claims against insurers for claims handling. However, Plaintiffs were allowed to proceed on their claims of bad faith and breach of contract. The court did not explain the factual basis of these claims.

By Aaron French

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