

In New York, Breach of Duty of Implied Covenant of Good Faith and Fair Dealing and Breach of Contract Are Distinct Causes of Action

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Summary: The plaintiff was injured while operating a vehicle insured by GEICO. The plaintiff obtained the policy limits from the tortfeasor's insurer and then made a claim under the SUM endorsement of the GEICO policy. GEICO denied the claim, and the plaintiff alleged GEICO unreasonably refused payment.

Gutierrez v. Government Empls. Ins. Co.

The plaintiff brought suit against GEICO asserting three causes of action: (1) for breach of contract and demanding payment of the SUM benefits; (2) for damages in tort for GEICO's alleged breach of "its duty to act in good faith" by unreasonably withholding payment of the SUM benefits; and (3) alleging GEICO "breached its contract and/or policy, and absolute duties and obligations to the Plaintiff and its insureds."

GEICO moved to dismiss the second and third causes of action for failure to state a cause of action. GEICO argued that if the second and third causes of action sounded in breach of the covenant of good faith and fair dealing, that covenant was implicit in every contract, and therefore those causes of action were duplicative of the first cause of action sounding in breach of contract. The trial court denied the motion. GEICO appealed.

On appeal, the court stated that "[i]mplicit in every contract is an implied covenant of good faith and fair dealing. (Citation omitted). The implied covenant of good faith and fair dealing is a pledge that neither party to the contract shall do anything which will have the effect of destroying or injuring the right of the other party to receive the fruit of the contract, even if the terms of the contract do not explicitly prohibit such conduct. (Citations omitted). Such a cause of action is not necessarily duplicative of a cause of action alleging breach of contract." The court explained that in the insurance context, an insurance carrier has a duty to "investigate in good faith and pay covered claims."

One major difference between the two causes of action is the recoverable damages. Damages for breach of the implied duty of good faith and fair dealing include the value of the claim at issue as well as consequential damages that can exceed the policy's limits. Consequential damages may include loss of earnings caused by breach of the implied covenant of good faith and fair dealing. By contrast, damages for breach of contract are limited to the amount of the claim.

The court concluded a cause of action for breach of contract was not the same as a cause of action for breach of the implied covenant of good faith and fair dealing. The court affirmed the trial court's denial of the Motion to Dismiss as to the second cause of action. However, even the plaintiff acknowledged the third cause of action sounded in breach of contract, rather than breach of the covenant of good faith and fair dealing. Because the third cause of action duplicated the first, the trial court should have granted the Motion to Dismiss the third cause of action.

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