

BAD FAITH BLOG

Material Misrepresentations Voiding Policy Bars Bad Faith Claim

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Summary: The insureds filed suit against their insurer for breach of contract and bad faith after their insurer denied their claim for a stolen boat and trailer. On appeal, the court held the policy was void due to a material misrepresentation on the application. Because there was no policy in force, there was no claim for bad faith.

Farr v. American National Property and Casualty Company

American National Property and Casualty Co. ("ANPAC") issued a watercraft insurance policy to Ernest Warren Farr, Jr. ("Warren") and Debbie Holmes ("Debbie") after Debbie submitted an application representing that neither she nor Warren had been convicted of a felony. In fact, Warren did have a prior felony conviction.

Thereafter, Warren and Debbie made a claim under the policy for a stolen boat and trailer. ANPAC denied coverage, and Warren and Debbie then filed suit against ANPAC asserting a count for breach of contract and a count for bad faith. The trial court granted ANPAC's motion for summary judgment. Warren and Debbie appealed.

The Court of Appeals of Arkansas affirmed summary judgment on the breach of contract claim finding Debbie made a material misrepresentation on the application when she failed to disclose Warren's prior felony conviction. The court held the misrepresentation was material since the application provided if the applicant had a felony conviction coverage would not be bound. The court also found it immaterial whether Debbie or the insurance agent filled out the application since Debbie had a duty to read the application before she signed it to ensure it was accurate.

The court concluded that the material misrepresentation voided the policy and relieved ANPAC from coverage for the loss. As a result, on appeal Warren and Debbie did not even address their claim for bad faith. Where there is no policy in force, there is no claim for bad faith. The court affirmed summary judgment on the bad faith claim as well.

By Katrina Smeltzer

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