

BAD FAITH BLOG

# UPDATE: Proper Brandt Fees Usage to Calculate Punitive Damages in California Bad Faith Cases

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Our post regarding the Supreme Court of California's June 2016 ruling appeared in September. The Supreme Court reversed and remanded to the Court of Appeal which ruled on November 3, 2016.

*Nickerson v. Stonebridge Life Insurance Co.*

The Court of Appeal, consistent with the Supreme Court's ruling, included the stipulated \$12,500 *Brandt* fees in the punitive damages calculation. The court ruled that the California and United States Supreme Court due process rulings required the award to be no more than 10 times the compensatory award. The compensatory award could not include the \$31,500 of additional benefits awarded on the policy of insurance, but it did include the \$35,000 for emotional distress caused by Stonebridge's bad faith conduct and the \$12,500 *Brandt* fees. Accordingly, the appellate court added \$125,000 to the punitive damages award, found the permissible punitive damages award was \$475,000 rather than \$350,000, and directed the trial court to modify the judgment accordingly.

By Anthony L. Martin

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