

BAD FAITH BLOG

Iowa Supreme Court Ruling Provides Partial Relief to Comp Carrier

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Toby Thornton filed a lawsuit against his employer's insurer, American Interstate Insurance, alleging common law bad faith for denying his claim for permanent and total disability (PTD) and his request for partial commutation of benefits. The district court found that American Interstate acted in bad faith as a matter of law by opposing Thornton's workers' compensation claims. On appeal, the Supreme Court of Iowa agreed American Interstate had no basis to challenge Thornton's PTD status and affirmed summary judgment on that issue. However, the Court held that the district court improperly found the insurer acted in bad faith as a matter of law on the commutation issue. Thus, the Court reversed part of the judgment and the damages awards and remanded the case for a new trial on the remaining bad-faith claims.

Thornton v. American Interstate Insurance Company

Thornton worked as a truck driver for Clayton County Recycling (CCR) where he picked up scrap metal and delivered it to CCR's salvage yard. On June 25, 2009, he lost control of the truck when the load shifted. As a result of the accident, Thornton was left permanently paralyzed from the chest down. CCR's worker's compensation insurer, American Interstate, sent its claims adjuster to the hospital where she indicated to Thornton that workers' compensation benefits would commence immediately. Concluding that Thornton was PTD, the adjuster collected his wage information and determined the amount of his weekly benefits. A medical opinion confirmed Thornton was PTD. Thus, American Interstate reserved \$762,644 for his care based on PTD. After numerous surgeries and rehabilitation, Thornton was discharged from the hospital and moved into his in-laws' home. American Interstate, among other things, modified the home so that it was handicap-accessible, provided a home healthcare nurse, and arranged for Thornton to take a disabled driver's license test. Meanwhile, it consistently paid Thornton's weekly benefits at the PTD rate.

During this time, Thornton's mother passed away, leaving him a \$3,000 inheritance, which he used to buy her headstone and a TV for his children. Suffering from depression, Thornton attempted suicide and received both inpatient and outpatient mental health treatment. He related his depression to the death of his mother and the divorce from his wife. American Interstate was unaware of Thornton's mental health treatment until it received the bills for payment. It agreed to delay settlement options until Thornton's divorce was finalized.

The settlement negotiations and ensuing litigation are complex. At the initial settlement meeting in February 2012, American Interstate presented Thornton with two settlement alternatives. In summary, each proposal included a weekly payment, as well as a Medicare Set Aside (MSA) and a Custodial Medical Account (CMA) for future medical expenses. American Interstate sought to end its liability for all future benefits, including its payment obligations for future medical expenses. Thornton decided he wanted to show the proposals to his attorney.

Shortly thereafter, Thornton's attorney filed a petition with the Iowa Workers' Compensation Commission requesting a determination of PTD and a partial commutation of benefits. The partial commutation of benefits would entitle him to a partial lump-sum payment with a reduction in weekly benefits. Despite its initial stance, American Interstate disputed PTD in its answer and at the comp hearing. The deputy found Thornton to be PTD and ordered American Interstate to continue paying weekly benefits. The deputy also awarded a partial commutation and expressed disapproval for American Interstate's denial of Thornton's partial commutation request, which the deputy deemed was in Thornton's best interest.

On December 26, 2013, Thornton filed suit against American Interstate alleging common-law bad faith for its conduct surrounding his workers' compensation claims. The district court concluded that American Interstate did not have a reasonable basis to deny Thornton was PTD or to challenge his claim for a partial commutation. The court instructed the jury that it had found American Interstate acted in bad faith as a matter of law as of March 11, 2013. The jury was instructed to determine whether the insurer had also committed bad faith before then. The jury decided the insurer acted in bad faith as of September 1, 2009, which was around the time American Interstate refused to give wage information to Thornton's counsel despite its acknowledgment of PTD. The jury awarded \$284,000 in compensatory damages and \$25 million in punitive damages. American Interstate appealed.

On appeal, the Court noted that in Iowa, bad faith claims against workers' compensation insurers are first party claims. The Court made clear that a workers' compensation insurer's actions complying with its statutory requirements are what give rise to bad faith liability rather than a particular provision in the insurance contract. "To establish a first-party bad-faith claim against a workers' compensation insurer, the plaintiff must show '(1) that the insurer had no reasonable basis for denying benefits under the policy and, (2) the insurer knew, or had reason to know, that its denial was without basis.'" (quoting *United Fire & Cas. Co. v. Shelly Funeral Home, Inc.*, 642 N.W.2d 648, 657 (Iowa 2002)).

The Court also discussed at length whether there could be a bad faith recovery without a breach of contract. The Court held that Iowa workers' compensation insurers can be liable for common law bad faith when denying benefits under the policy. This can take place when the "insurer unreasonably contests a claimant's PTD status or delays delivery of necessary medical equipment."

The Court then addressed whether American Interstate had a reasonable basis for denying Thornton was PTD. The record showed the insurer obtained opinions from a medical professional, its claims adjuster, and outside counsel that Thornton was PTD. Thus, the Court agreed with the lower court that these facts demonstrated that American Interstate acted in bad faith as matter of law regarding the PTD claim. Next, the Court considered whether the insurer's closed-file settlement offer including a MSA and an annuity constituted bad faith. The Court concluded that was not bad faith conduct. Instead it considered such structured settlements as often mutually beneficial and consistent with state and federal public policy.

The Court then addressed Thornton's partial commutation claim. The Court noted that a lump sum payment of future benefits may be commuted when it has been demonstrated to the *workers' compensation commissioner* that such commutation is in the best interest of the worker. On this claim, the Court acknowledged "[o]missions in Thornton's proposed budget, his past spending habits and his lack of experience with investments, [which] gave American Interstate a reasonable basis to question the commutation." Thus, the Court concluded that American Interstate did not act in bad faith for challenging Thornton's commutation petition since the facts were fairly debatable. The Court held that the district court should have granted American Interstate's motion for directed verdict on this claim. Because the district court's incorrect rulings and improper jury instructions likely affected the damage awards, the case had to be remanded for a trial on damages and the surviving bad faith claims.

In Iowa, cases against workers' compensation insurers are first party bad faith cases. Such cases can almost never prevail for commutation requests; such requests are for the commissioner to decide. However, other benefit disputes are subject to bad faith claims. When an insurer takes a position which is fairly debatable, there should be no bad faith finding as a matter of law. Such issues are always reserved for the jury. However, if there is no dispute, such as the PTD claim in *Thornton*, bad faith can be found as a matter of law, and affirmed on appeal.