

# Fifth Circuit Finds Bad Faith Is Not Required For Liability Under The Texas Prompt Payment of Claims Act

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In *Agredano v. State Farm Lloyds*, the Fifth Circuit reversed a ruling that the insureds were not entitled to attorneys' fees and statutory interest under Section 542.060 of the Texas Prompt Payment of Claims Act ("TPPCA"), and remanded for reconsideration consistent with its opinion. Although a jury found in favor of insureds on their breach of contract claim against State Farm Lloyds, the district court denied their request for attorneys' fees and statutory interest under the TPPCA because they had failed to demonstrate that State Farm Lloyds acted in bad faith.

The Fifth Circuit acknowledged its previous unpublished (and non-precedential) opinion in *Chavez v. State Farm Lloyds*, 746 F. App'x 337 (5th Cir. 2018), was no longer good law on the issue of bad faith as a prerequisite for relief under Section 542.060. The court noted that subsequent Texas Supreme Court decisions clearly construed the TPPCA as a strict liability provision. Therefore, the Fifth Circuit found that insureds no longer need to prove that the insurer acted wrongfully or in bad faith to be entitled to attorneys' fees and statutory interest under Section 542.060. Rather, insureds need only to prove the insurer's liability under the policy and the insurer failed to comply with the timing requirements of the TPPCA.

The court also rejected State Farm Lloyds' argument that plaintiffs were required to specifically cite Section 542.060 in their pleadings to be entitled to the relief thereunder. The court noted the plaintiffs pleaded that defendant denied their claim and that they were entitled to an "18% [p]enalty [i]nterest pursuant to Ch. 542 of the Texas Insurance Code" and "[a]ttorney's fees." The court found that was sufficient under the federal pleading standards.