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The Insurance Law & Bad Faith Practice Group

BAD FAITH UPDATE

Judge Caputo of the Middle District of Pennsylvania granted summary judgment in favor of an insurer finding that the insurer had a reasonable basis to investigate the insureds' fire claim due to the existence of several "red flags." Verdetto v. State Farm Fire & Cas. Co., No. 10-1917, 2011 WL 5878380 (M.D.Pa. Nov. 23, 2011).

The insureds sought coverage under their renter's insurance policy for fire damage to personal property at their former rental home, despite being "well moved into" a new rental home almost a week prior to the fire. The fire, which was determined to be arson, allegedly damaged "a large amount of valuable items, many of them less than two years old." The insurer began an investigation into the insureds' fire damage claim and learned that the fire investigator did not observe much personal property at the former rental home at the time of the fire. In addition, the insureds refused to provide authorizations for their financial or telephone records and refused to provide receipts for the items they allegedly replaced. The insurer ultimately denied the insureds' claim for lack of cooperation.

The insureds initiated this action asserting claims for breach of contract and bad faith. Following discovery, the insurer filed a motion for summary judgment asserting that it did not breach its contract because the insureds failed to cooperate and that it did not act in bad faith.

With respect to the bad faith claim, the court emphasized the burden upon the insureds to establish the insurer's lack of a reasonable basis in the handling of the claim and recognized that "courts applying Pennsylvania law have determined that an insurer meets its burden of showing 'a reasonable basis' for investigating a claim, and is thus entitled to judgment as a matter of law, where it demonstrates the existence of certain 'red flags' which prompted it to further investigate an insured's claim."

The court found several "red flags" including the determination that the fire was a result of arson. The court additionally stressed the critical nature of the insureds' financial and telephone records to the insurer's investigation. The court granted summary judgment in favor of the insurer holding that the insurer did not unreasonably delay or stall the investigation, but rather could not complete its investigation due to the insureds' lack of cooperation.

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