

BAD FAITH BLOG

Bad Faith and UIM Coverage

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Grossi v. Travelers Personal Insurance Co.

Here the issue was the conduct of the insurer under in handling a claim for underinsured motorist coverage. The injured insured had presented evidence of future wage loss of over \$4,000,000.00, but liability coverage of only \$3,000,000.00. Accordingly, the insured made a demand for the \$300,000.00 in underinsured motorist coverage (UIM), but Travelers nevertheless refused to pay. The insured filed notice of arbitration and ultimately after arbitration, Travelers paid the insured the policy limits of the UIM policy. The insured then filed a claim for bad faith under the applicable Pennsylvania statute. In the Grossi case, the Court ended up affirming the bad faith award, including punitive damages, based on the following conduct:

Travelers had established an initial \$1,000.00 reserve for the claim without ever increasing it and despite receiving evidence of a loss greatly above the limit of the UIM coverage. The Court held that the \$1,000.00 reserve which was maintained throughout the claim was not reasonable and was reckless in light of clear liability for the seven surgeries that the insured had, continuing medical treatment that the insured required, and the loss of future earnings which was corroborated by the insured's treating physicians. Further damning facts were that the claims person did not perform any analysis of the insured's experts; she just rejected their analysis without explanation. In addition, Travelers delayed in getting a vocational expert and an IME, and was faulted for the delay. Travelers also never explained the rejection of the UIM claim and committed to the arbitration without commencing its investigation.

It is clear from reading this lengthy opinion that the Court did not like Travelers' conduct. The insured was very seriously injured and Travelers, at the best, was cavalier in the way it approached this file. This bad faith conduct by Travelers resulted in a punitive verdict of \$1,252,325.00. Despite a strong and lengthy dissent which would have entered JNOV in favor of Travelers, the bad faith and punitive damages awards were affirmed.

By John S. Sandberg

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