

BAD FAITH BLOG

Colorado Supreme Court Vacates Bad Faith Verdict

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Summary: A serious injury construction accident resulted in the general contractor seeking indemnity from its subcontractor, Stresscon. When Travelers did not settle the general contractor's claim, Stresscon settled and then sued Travelers for bad faith. The Colorado trial court entered judgment on the bad faith jury verdict against Travelers, the Court of Appeals affirmed, but the Supreme Court of Colorado reversed and vacated the judgment.

Travelers Property Casualty Company of America v. Stresscon Corporation

The precise issue before the Supreme Court of Colorado was whether the notice-prejudice rule extended to an insured's violation of a no voluntary payments clause. The supreme court found that notice provisions in occurrence policies have a different function than no voluntary payments clauses. Although the Colorado Supreme Court had adopted the notice prejudice rule in *Friedland v. Travelers Indemnity Company*, 105 P.3d 639 (Colo.2005), the court refused to extend that ruling to Stresscon's voluntary payment to the general contractor "made in the face of the no voluntary payment's clause of its insurance contract with Travelers." The court found the sole basis for the trial court's denial of Travelers' Motion for Directed Verdict was the improper extension and application of the notice-prejudice rule. Accordingly, the bad faith breach of the insurance contract verdict and award of a statutory penalty for twice the verdict, costs, and attorney's fees was set aside. It was undisputed that Stresscon had voluntarily settled and paid the general contractor's third-party claim seeking reimbursement. For those reasons, the judgment of the Court of Appeals was reversed and the matter was remanded with directions that the bad faith jury verdict be vacated and set aside and to have judgment entered instead in favor of Travelers.

By Anthony L. Martin

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