

BAD FAITH BLOG

# The Devil is in the Details: Minor Variation by Insurer Voids Settlement and Threatens Bad Faith Exposure

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A recent ruling from the Georgia Court of Appeals provides yet another cautionary tale for insurers seeking to avoid bad faith claims. In *Patrick v. Kingston*, a routine pre-suit settlement demand quickly became a headache for one insurer. After accepting the demand, the insurer tendered the settlement check in the amount agreed upon and believed the deal to be done. Plaintiff's counsel, however, returned the check claiming the insurer had rejected the demand by materially changing the terms of the offer. The problem? The settlement check contained the following standard language: "VOID IF NOT PRESENTED WITHIN 90 DAYS". Plaintiff's counsel argued this language varied from the requirement in the settlement demand that the settlement payment not include any terms, conditions or representations that are not permitted in the release.

The insurer argued the standard language contained on the check simply communicated restrictions that are imposed by the financial institutions under state law. The Court of Appeals rejected this argument, finding it without merit and noting that relevant state and federal law do not specifically require a 90-day negotiable period. The Court of Appeals further noted that the insurer could have chosen other means by which to provide payment to plaintiff but, instead, elected a method that could not have satisfied the terms of the settlement offer. The Court of Appeals ultimately found no enforceable settlement agreement existed.

This ruling by the Georgia Court of Appeals is yet another example of how easy it can be to fall into a bad faith trap, even when accepting a demand.

*Patrick v. Kingston*, 370 Ga. App. 570, 898 S.E.2d 560 (2024)