

BAD FAITH BLOG

# Equitably Estopped from Denying Coverage but Not Liable for Bad Faith

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**Summary:** Insureds appealed the ruling that their insurer Automobile Club Inter-Insurance Exchange did not act in bad faith in denying their property damages claim. They argued the insurer should have accepted a late premium payment, as it had done in the past, so that the policy did not lapse. The Louisiana Court of Appeals affirmed the trial court's ruling finding even if the insurer was equitably estopped from denying coverage it had not acted in bad faith.

*Ambrose v. Automobile Club Inter-Insurance*

On September 30, 2011, Mrs. Ambrose was involved in an automobile accident in which her 2007 Nissan Frontier sustained property damage. Automobile Club Inter-Insurance Exchange ("ACIIE") denied coverage for the property damage arguing Mrs. Ambrose's policy had lapsed on September 30, 2011 at 12:01 a.m. due to her failure to timely pay the premium. The Ambroses filed suit against ACIIE for damages and bad faith.

Mrs. Ambrose argued that she tried to make payment on October 3, 2011, but that ACIIE wrongfully declined this payment because in the past, ACIIE had regularly and consistently accepted her late premium payments. She argued she was reasonable and justified in believing that the late payment would not jeopardize her coverage because ACIIE had established a habit and/or custom of accepting overdue or late payments. The Ambroses argued ACIIE should be equitably estopped from denying coverage, and that ACIIE's denial was in bad faith.

During the bench trial, ACIIE's employee explained that prior to May 2011, ACIIE had in place a 12-17 day grace period. However, in May 2011, ACIIE abolished the grace period to comply with a state requirement that insurers report cancelled or expired policies within 15 days. The ACIIE employee also explained to the court the several locations on the policy renewal documents that warned payment was due on September 30, 2011 and the policy would be terminated if payment was not made by the due date.

The trial court ruled in favor of the Ambroses on the equitable estoppel claim and found there was coverage, but ruled in favor of ACIIE on the bad faith claim. On appeal, the Court of Appeals for Louisiana affirmed the rulings.

The appellate court agreed with the trial court's findings that: (1) ACIIE acted reasonably when abolishing the grace period to prepare for changes in the law; (2) ACIIE had the right to terminate the grace period at any time; (3) ACIIE's insufficient notice of policy changes was not proof of bad faith as ACIIE believed in good faith it has sufficiently notified the Ambroses it would not continue coverage if the renewal payment was late; and (4) ACIIE merely denied and litigated a claim that the company honestly believed was invalid. The appellate court further determined ACIIE's actions were not arbitrary or capricious and acted within the provisions set forth in the renewal policy that was mailed to the Ambroses.

The appellate court also agreed with the trial court's finding that equitable estoppel applied because: (1) ACIIE was in the habit of accepting overdue payments since it repeatedly accepted payments from the Ambroses that were paid up to ten days after the renewal notice due date and (2) the Ambroses were reasonable to rely on the past habit of accepting late payments and were reasonable in their belief that the informal policy of accepting late payments still existed despite new policy language. The appellate court further noted ACIIE's custom of accepting overdue payments reasonably led the Ambroses to believe that their policy would remain in effect even though their payments were not paid timely.

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