

Insurer's Failure to Reassess Value of Claim Results in Bad Faith

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Summary: Bamford filed suit against Regent to recover for bad faith after Regent refused to settle a car accident case within its \$6 million policy limit leading to an adverse verdict and judgment for \$10.6 million. At trial in the bad faith case, the jury awarded the Bamford approximately \$2 million. On appeal, the court held that Bamford presented sufficient evidence that Regent acted in bad faith in failing to settle the plaintiffs' claims within the policy limits.

Bamford Inc. v Regent Ins. Co.

Bamford Inc. ("Bamford") purchased commercial automobile liability insurance from Regent Insurance Company ("Regent") with a policy limit of \$6 million. In May of 2009, a Bamford employee caused a car accident that injured members of the Davis family ("plaintiffs"). Despite plaintiffs' numerous settlement offers within the policy limit and Bamford's repeated demands to settle the case within the policy limit, Regent refused to settle the claims, citing a possible "loss of consciousness" defense and Nebraska's status as a conservative jury verdict state ("nothing is worth more than \$2 million in Nebraska").

At trial in the tort case, the jury returned a verdict of approximately \$10.6 million for plaintiffs. Although Bamford appealed that verdict, the parties eventually settled the case for approximately \$8 million. Bamford was responsible for the amount in excess of the policy limit, and later sued Regent, alleging that Regent acted in bad faith in refusing to settle the Davises' claims. At trial, the jury awarded Bamford approximately \$2 million.

Regent's appeal was unsuccessful. The Eighth Circuit affirmed the jury's verdict and held that the district court did not abuse its discretion in denying Regent's motion for a new trial. Under Nebraska law, bad faith failure to settle within the policy limits is demonstrated by (1) the insurer's unwarranted rejection of an offer to settle within the policy limits, or (2) a complete and total failure to take into account the potential liability of its insured for an excess judgment, or (3) an insurer's failure to timely and adequately inform its insured of the insurer's adverse interest, of settlement, demands and offers, and of the potential value of the case.

The court rejected Regent's argument that the failure to settle was an honest mistake in judgment. While the court noted that the jury could have found that Regent reasonably underestimated the value of case, the jury's opposite conclusion was supported by the evidence. Specifically, the court focused on the fact that after the district court in the tort case struck the "loss of consciousness" defense and found Bamford liable as a matter of law, Regent failed to reassess the value of the case. Additionally, it ignored plaintiffs' attorney's reminders that he planned to seek an excess judgment at trial and Bamford's repeated demands to settle the case within the policy limits. Thus, the court held that Bamford presented sufficient evidence for a jury to conclude that Regent acted in bad faith in failing to settle plaintiffs' claims within the policy limits.

By Jacob Grimes and Anthony Martin

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