

BAD FAITH BLOG

Let the Jury Decide: Were Medical Expenses Withheld in Bad Faith?

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Plaintiff sued Liberty Mutual for breach of contract and breach of the duty of good faith and fair dealing when Liberty Mutual refused to pay medical expenses incurred for transfer to a trauma center. Liberty Mutual claimed the transfer and extra costs were unnecessary. The trial court granted Liberty Mutual summary judgment finding as a matter of law that a denial based upon unnecessary medical expenses was not bad faith. The Oklahoma Supreme Court disagreed, reversed, and remanded, finding that whether Liberty Mutual acted in bad faith was a question for the jury.

Falcone v. Liberty Mutual Insurance Company

Falcone was injured in an accident while a passenger in her mother's vehicle. The defendant Anthony Lewis, an uninsured motorist, caused the accident. Falcone was taken from the accident site by ambulance to OU Medical Center Emergency Room where the emergency room physician transferred her to a Level 2 trauma center. The medical bill for the emergency room visit was \$47,203.00, of which \$24,420.25 was for the Level 2 trauma center. Falcone submitted this bill along with bills from subsequent treatment to her mother's insurer, Liberty Mutual, to be paid as "compensatory damages" under her mother's UM policy.

Liberty Mutual engaged two experts who both opined the transfer to the Level 2 trauma center was unnecessary. Liberty Mutual denied the Level 2 trauma center charges as unnecessary. After negotiating for about a year, Falcone sued Liberty Mutual for breach of contract and breach of the duty of good faith and fair dealing. It paid its full UM limits 4-1/2 months after Falcone filed suit. Liberty Mutual moved for summary judgment reasoning that as a matter of law it is not bad faith to question the reasonableness of medical charges. The trial court agreed and granted the motion.

On appeal, the Oklahoma Supreme Court explained that an insurer has an implied duty to deal fairly and to act in good faith with its insured. If the insurer could be clearly shown to have withheld payment unreasonably and in bad faith, it could be liable for consequential and punitive damages. The court held that the question of whether withholding payment for the costs of the trauma center was unreasonable and in bad faith was a question for a jury. Summary judgment in favor of the insurer was premature and inappropriate. The Oklahoma Supreme Court reversed and remanded. The concurring and dissenting justices would have found bad faith as a matter of law and remanded solely for the jury to determine the amount of Falcone's bad faith damages, and whether she was entitled to punitive (in addition to compensatory) damages.