

THOUGHT LEADERSHIP

News

## INSURER WINS SUMMARY JUDGMENT AND SANCTIONS AGAINST CLAIMANT IN BAD-FAITH WORKERS COMPENSATION LAWSUIT

Newsbrief

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On Monday, the Dallas Court of Appeals upheld a summary judgment and a sanctions award in favor of the workers compensation carrier in a bad-faith lawsuit. *Daniels v. Indemnity Ins. Co.*, S.W.3d, 2011 WL 2772304 (Tex. App.—Dallas 2011). Daniels filed a claim for benefits and was paid temporary benefits and impairment benefits. The Division notified Daniels that he was eligible for supplemental income benefits, but Indemnity disputed this because Daniels did not look for work and suffered an unrelated second injury. A contested case hearing determined that Daniels was not entitled to supplemental income benefits and the appeals panel affirmed. Daniels then sued Indemnity in district court for a judicial review of the determination. While that process was proceeding, Daniels sued Indemnity and his employer alleging bad faith in an entirely separate suit. Daniels nonsuited the case the day before Indemnity's summary judgment was scheduled to be heard. About a month later, Daniels filed essentially the same lawsuit. The trial court granted summary judgment to Indemnity and awarded sanctions against Daniels and his attorney.

On appeal, the Dallas court determined that the summary judgment evidence conclusively established that Daniels filed the bad faith suit against Indemnity without a determination by the Division that benefits were due him. The court noted that the Division's determination was that benefits were not owed. The court then turned to the sanctions award, noting that the "trial court's fourteen-page order imposing sanctions against McLeaish sets forth in great details the history of the parties' dispute." In upholding the sanctions' award, the court held that, based on the record, the suit was "groundless or filed for an improper purpose." It noted that the trial court could have determined that it "was an attempt to circumvent an adverse ruling in the original lawsuit and unnecessarily prolong and increase the expense of the litigation for Indemnity."