

THOUGHT LEADERSHIP

News

U.S. DISTRICT COURT ALLOWS COMMON LAW BAD FAITH CLAIMS TO PROCEED AGAINST WORKERS' COMPENSATION INSURER

Newsbrief

19 APR 2012

Recently, a U.S. District Court granted summary judgment in favor of a workers' compensation insurer on the plaintiff's Texas Insurance Code and Deceptive Trade Practices Act (DTPA) claims, but denied summary judgment on the common law bad faith claims. In *Barber v. Dolgencorp of Texas, Inc.*, 2012 WL 1150764 (E.D. Tex. – Sherman Div., April 5, 2012), the employee brought suit against after a dispute arose as to whether the injuries claimed were work related. The court stayed the lawsuit pending the Texas Supreme Court's ruling in *Texas Mutual Ins. Co. v. Ruttiger*. And then, in light of the Texas Supreme Court's ruling in that case, granted summary judgment on the Insurance code and DTPA claims. But as to the common law bad faith claims, based in part on the insurer's duty to reasonably investigate a claim, the court found that fact issues exist and denied summary judgment on that issue. Summary judgment was granted in part and denied in part.