

THOUGHT LEADERSHIP

News

FEDERAL DISTRICT COURT HOLDS JOINING APPRAISER CANNOT DEFEAT DIVERSITY JURISDICTION, DENIES REMAND

Newsbrief

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The Southern District of Texas, McAllen Division, recently denied remand in a bad faith suit filed in state court against Allstate and its appraiser. In *Reighard v. Allstate Texas Lloyds*, No. 7:13-CV-610, –F. Supp.–, 2014 WL 68707 (S. D. Tex. Jan. 8, 2014), the policyholder sued Allstate and Allstate’s appraiser after the appraisal returned a result that was unsatisfactory to the policyholder. Allstate removed the case to federal court, contending the non-diverse appraiser was improperly joined.

Although both parties acknowledged the appraiser could not be directly liable for Insurance Code violations, the policyholder argued the appraiser had conspired with the insurer to underpay the claim. Examining this contention, the court observed that although the petition contained a single sentence to that effect, it did not on its face allege a cause of action for conspiracy. Perhaps more importantly, the court noted,

In particular, appraisers cannot misrepresent insurance policies, material facts, or legal rights, or refuse to pay claims... The utterance of “conspiracy” and a mysterious handwave does not enable an appraiser to deny coverage, and does not state a claim under state law.

Accordingly, the court found that the appraiser for Allstate was improperly joined in the lawsuit and denied plaintiff’s motion to remand.

Editor’s note: This case reveals an exploratory move and a new twist in policyholder attorneys’ (in this case Richard Daly) attempting to defeat diversity jurisdiction by suing appraisers. We will continue to monitor for similar efforts in other cases to see if it gains any momentum.