

THOUGHT LEADERSHIP

News

DALLAS FEDERAL COURT REMANDS CASE & FINDS INDEPENDENT ADJUSTER PROPERLY JOINED

Newsbrief

23 SEP 2015

Federal District Court Judge Joe Fish of the Northern District of Texas recently held that a homeowner properly stated a claim against an independent adjuster in *Glidwell v. Safeco Ins. Co. of Indiana*, No. 3:15-CV-1099-G, 2015 WL 4868483 (N.D. Tex. Aug. 13, 2015). The case arose out of a claim for hail damage to Glidwell's home in Kaufman County, Texas. After Glidwell made an insurance claim, Safeco assigned independent adjuster Chad Davis to investigate the claim. Unsatisfied with Safeco's claims decision, Glidwell sued both Safeco and Davis in state district court. Safeco removed the case to federal court arguing Glidwell improperly joined Davis to defeat diversity jurisdiction.

On Glidwell's motion to remand, the Court first applied the Texas state pleading standards rather than the stricter federal standards to determine whether Glidwell had sufficiently stated a claim against the adjuster. To defeat remand, a defendant must show that that the plaintiff could not reasonably recover against the improperly joined defendant under state law. Texas law recognizes that individual adjusters could be liable for improper claims handling under the Texas Insurance Code. The Court found that Glidwell had pleaded a potentially valid claim against Davis under the Insurance Code. Specifically, Glidwell alleged that Davis "conduct[ed] a substandard investigation, fail[ed] to include in his report all of the damages noted during his inspection, undervalue[ed] the damages he observed during the inspection, and perform[ed] an outcome-oriented investigation, all of which led to the underpayment of Glidwell's claim and an inequitable evaluation of Glidwell's losses."

Editor's Note: Judge Fish's ruling follows a recent trend among Texas federal district courts that have similarly granted a remand after finding potential liability against one or more adjusters. Although this ruling and others involve variations of the same boilerplate allegations contained in many first-party bad faith homeowner lawsuits, federal courts appear to be increasingly willing to find these allegations sufficient to send cases back to state court.