

THOUGHT LEADERSHIP

News

DALLAS FEDERAL COURT DISMISSES BAD FAITH/ DTPA SUIT, HOLDING A VALUE DISPUTE IS NOT A MISREPRESENTATION

Newsbrief

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Last week, a federal district judge in Dallas granted a carrier's 12(b)(6) motion to dismiss the policyholder's bad faith and DTPA claims, and disposed of the entire case. *Click v. State Farm Lloyds*, No. 1:17-CV-00108-BL, 2018 WL 1322167 (N.D. Tex. March 13, 2018) (slip op.) involved a homeowner's water damage claim for which State Farm paid approximately \$25,000 in covered repair costs. The homeowner contended much of the damaged property could not be repaired and needed to be replaced, and alleged the actual cost of covered repair/replacement was nearly \$83,000.

State Farm removed the resulting lawsuit to federal court and moved to dismiss most of the claims for failure to meet federal pleading standards. The court observed that while the petition recounted the events leading to the dispute, and also contained separate sections alleging a series of statutory violations, the petition did not do enough to explain how the alleged facts gave rise to the alleged violations. The court stated, "Under the federal pleading standard, throwing out a narrative account of the facts and then separately citing to statutes but putting the onus on the court or defendant to determine which facts might support which legal claims is deficient pleading."

The court also rejected the homeowner's contention that State Farm misrepresented the policy terms by failing to pay all of his loss as promised: "...the insured cannot decide that the multiple estimates prepared by an adjuster are insufficient, provide his own estimate, and then claim that the insurer violates the DTPA by declining to pay out the total of his estimate, whether or not the insurer advertised the policy as compensating for all loss." The court went on to observe that nothing in the law requires an insurer to "pay out any amount the insured feels entitled to," and that a dispute on the value of a claim, without more, is not a misrepresentation or a DTPA violation.

Ultimately the court dismissed all of the claims with prejudice except the insured's claim for declaratory judgment, which it dismissed without prejudice.

Editor's Note: This ruling once again demonstrates the value of pre-answer motions to dismiss in federal court, and shows that Judge McBryde is not the only judge in the Northern District who will grant them.