

THOUGHT LEADERSHIP

News

SAVED BY THE BELL—DESPITE POOR PLEADINGS, WESTERN DISTRICT OF TEXAS FINDS FIRST PARTY PLAINTIFF ENTITLED TO ATTORNEY’S FEES AND STATUTORY INTEREST UNDER FEDERAL RULE 54

Newsbrief

31 JUL 2018

Last week, the United States District Court for the Western District of Texas, San Antonio Division, addressed the issue of statutory attorney’s fees and interest in *Agredano v. State Farm Lloyd’s*, No. SA-15-CV-01067-RCL, 2018 WL 3579484 (W.D. Tex. Jul. 25, 2018) (slip. op.). In the underlying suit, Plaintiffs prevailed at trial on their claims of breach of contract and violations of the Texas Insurance Code. Accordingly, the issue before the appellate court was whether Plaintiffs were entitled to attorney’s fees and statutory interest under Chapter 38 of the Civil Practice and Remedies Code and Section 542.060 of the Texas Insurance Code.

First, the Court noted that Chapter 38 provides that a person may recover attorney’s fees from an individual or corporation under a contract claim. The Court quickly rejected Plaintiffs’ claim under this chapter as the defendant, a Lloyd’s plan, was an unincorporated entity and therefore fell outside of this section.

Next, the Court considered whether Plaintiffs were entitled to attorney’s fees under Section 542.060 of the Texas Insurance Code, providing for remedies for an insurer’s violations of the underlying policy. The Texas Prompt Payment of Claims Act provides an insurer who is liable under a policy and fails to promptly respond or pay a claim must pay an additional 18% per annum and attorney’s fees. Recognizing that the jury found State Farm breached the contract with Plaintiffs in that Plaintiffs made a meritorious claim with State Farm who did not pay the claim, the Court found that Plaintiffs satisfied the substantive requirements of Section 542.060. Nonetheless, Plaintiffs’ pleadings failed to make specific claims or request relief under the Prompt Payment of Claims Act (including 542.060).

Despite the omission from Plaintiffs’ pleadings, the Court found Plaintiffs’ motion for attorney’s fees and interest was saved by Federal Rule of Procedure 54(c) providing “[e]very final judgment should grant the relief to which each party is entitled, *even if the party has not demanded that relief in its pleadings.*” Because the fees and interest in Section 542.060 are an automatic penalty and therefore an aspect of damages rather than a cause of action, they constitute “relief”. Although Plaintiffs did not precisely demand relief, because they substantively complied with Section 542.060, the Court concluded that Plaintiffs were entitled to relief.

SAVED BY THE BELL—DESPITE POOR PLEADINGS, WESTERN DISTRICT OF TEXAS FINDS FIRST PARTY PLAINTIFF ENTITLED TO ATTORNEY’S FEES AND STATUTORY INTEREST UNDER FEDERAL RULE 54

Lastly, State Farm argued that Plaintiffs were not entitled to relief under 542.060 since Plaintiffs failed to submit a proper written notice of their claim as required. The Court noted that, although Plaintiffs’ original claim was not in writing, they provided a letter of representation to their claims representative which was enough for State Farm to apprise of the facts relating to the claim—including a damage estimate prepared by a third party. The Court therefore rejected Defendant’s argument and found Plaintiffs entitled to interest at 18% per annum and attorney’s fees.