

THOUGHT LEADERSHIP

News

FIFTH CIRCUIT CONCLUDES PROMPT PAYMENT CLAIMS DO NOT REQUIRE “MAGIC WORDS” AND DO NOT REQUIRE A SHOWING OF BAD FAITH

Newsbrief

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Last week, the United States Court of Appeals for the Fifth Circuit reversed a trial court and concluded that a claim for an 18% penalty was sufficient to plead a Prompt Payment claim and that no showing of bad faith is required. In *Agredano v. State Farm Lloyds*, 2020 WL 5543046, (5th Cir., Sept 16, 2020) the Agredanos sued their homeowners' insurance company after it denied their claim for windstorm damage to their home. The trial court granted summary judgment in favor of State Farm on other causes of action but allowed the breach of contract claim to be presented to a jury, which granted a verdict in Plaintiffs' favor. Although the Plaintiffs sought attorney's fees and “statutory interest of 18%[.]” the district court ruled that the failure to specifically plead relief under Texas Insurance Code § 542.060 barred the requested relief and entered judgment only for the breach of contract damages found by the jury, with interest. The Agredanos appealed.

On appeal, State Farm argued Plaintiffs failed to plead a claim for the TPPCA interest under § 542.060 because Plaintiffs did not “specifically request” such a claim, that is, Plaintiffs did not cite the statute or quote the language of the statute. Relying on the unpublished decision in *Chavez v. State Farm Lloyds*, the district court reversed its original ruling and denied the § 542.060 relief. Plaintiffs argued they pleaded that they submitted their claim and that it was denied and entitlement to an “18% [p]enalty [i]nterest pursuant to Ch. 542” and “[a]ttorney's fees.”

The Fifth Circuit Court of Appeals found that while the pleading “could have been more robust,” the pleading standard does not require magic words or detailed facts in most cases. The court also noted that State Farm did not bring a Rule 12(e) claim that it did not understand the pleadings and was “clearly” aware of the claim because the Plaintiffs stated it in their discovery responses and State Farm argued in its summary judgment motion that the Plaintiffs sought “causes of action based upon Chapter[] ... 542 of the Texas Insurance Code[.]” Based on those facts, the court concluded the statutory interest claim was not improperly pleaded.

The court then addressed the recoverability of prompt payment damages in the absence of bad faith findings. They concluded *Chavez* was no longer good law based on subsequent Texas Supreme Court cases and that the district court erred in holding that the claims for the 18% penalty and attorney's fees under Chapter 542.5 were barred. The court reversed the decision and remanded the case to the trial court.