

THOUGHT LEADERSHIP

News

“INDEPENDENT INJURY” ISN’T A PLEADING REQUIREMENT

Newsbrief

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To close out the month of February, the United States District Court of the Eastern District of Texas held that plaintiffs do not necessarily need to plead independent injuries to recover for extracontractual claims against insurance carriers. In *Blue Star Sports Holding, Inc. v. Federal Insurance Company*, 2023 WL 2266128, Blue Star discovered that two of its employees embezzled over six million dollars of company funds through illegal wire transfers. It filed a claim under its Federal insurance policy under its “Employee Theft” provision, but Federal denied the claim.

Blue Star filed suit against Federal for breach of the implied covenant of good faith and fair dealing, breach of contract, bad faith, and other claims. However, Blue Star alleged only the denial of benefits as its damages and not any independent damages. Federal moved to dismiss the extracontractual claims, arguing that the “independent injury rule” and “no-recovery rule” work together to disallow claimants from recovering for extracontractual bad faith claims unless the claimant pleads an independent injury. The Court disagreed.

The Court cited the 2018 Supreme Court of Texas case, *USAA Texas Lloyds Co. v. Menchaca*, 545 S.W.3d 479, to state that the “independent injury rule” only limits the recovery of damages that flow from a mere denial of policy benefits. So an insured is required to specifically plead an independent injury only if he/she seeks to recover damages beyond the policy benefits.