

Ticking Financial Time Bomb: Eleventh Circuit Reaffirms Insurer's Duty to Initiate Settlement in Florida Bad Faith Case

[Blog](#) [Hunton Insurance Recovery Blog](#)

Hunton Andrews Kurth LLP

USA | May 20 2025

In April 2025, the Eleventh Circuit reversed a judgment against a Florida lodge and held that a jury should determine whether the failure of the lodge's insurer to initiate settlement proceedings before a claim was filed constituted bad faith. In reversing the district court, the Eleventh Circuit reinforced the key duty imposed on insurers under Florida law to diligently and carefully investigate claims and act with an appropriate degree of care to protect their insureds or face consequences such as bad faith liability.

Background

In 2015, the Pride of St. Lucie Lodge 1189, Inc. hosted a weekend social event while operating as a club and bar. In the early hours, an altercation erupted between two groups inside the Lodge. They were removed from the premises, but the conflict continued outside, culminating in an attendee sustaining a fatal gunshot wound.

The Lodge had a primary general liability insurance policy issued by Kinsale Insurance Company with a \$1,000,000 limit and a \$50,000 sublimit for assault and battery claims.

Approximately eight months after the altercation, the Lodge received a letter of representation from the estate of the patron who was shot. The Lodge notified Kinsale of the incident and potential claim. Kinsale's investigation revealed several concerning practices at the Lodge. These included the use of volunteer security guards who had previously been criticized for inaction during fights and the Lodge's practice of simultaneously escorting two conflicting groups out of the premises, which was contrary to best practices. Additionally, one of the security guards knew a participant and had previously heard her brag that she was "liable to shoot."

Nevertheless, Kinsale did not initiate settlement proceedings. In August 2016, the patron's estate filed a negligent security claim against the Lodge. After three years of litigation, the negligent security claim went to trial, and the jury reached a verdict of more than \$3 million against the Lodge.

Thereafter, Kinsale filed a declaratory judgment in the United States District Court for the Southern District of Florida seeking a declaration that the Lodge's \$50,000 sublimit for assault and battery applied. The Lodge counterclaimed for bad faith based on Kinsale's failure to initiate settlement proceedings and make an offer within policy limits before the suit was filed.

Kinsale eventually moved for summary judgment on the Lodge's bad faith claim and the district court granted its motion, concluding that no "reasonable" jury could find this a "clear liability" case.

The Eleventh Circuit Decision

The Lodge appealed, and the Eleventh Circuit, in *Kinsale Ins. Co. v. Pride of St. Lucie Lodge 1189, Inc.*, No. 22-12675, 2025 WL 1142094 (11th Cir. Apr. 18, 2025), reversed the district court and held that Kinsale’s bad faith was an issue for a jury to determine.

The Eleventh Circuit’s analysis began by reiterating that Florida law imposes on insurers “a duty to use the same degree of care and diligence as a person of ordinary care and prudence should exercise in the management of his [or her] own business.” *Id.* In the context of investigating and evaluating a claim, the court explained that insurers have a duty to use diligence and care.

The court described circumstances where “liability is clear, and injuries so serious that a judgment in excess of the policy limits is likely,” and stated that an insurer in these circumstances “has an affirmative duty to initiate settlement negotiations.” *Id.* (citing *Powell v. Prudential Prop. & Cas. Ins. Co.*, 584 So. 2d 12 (Fla. 3d DCA 1991) (per curiam)). The court explained that the heightened duty is a result of the financial exposure to insureds constituting a “ticking financial time bomb” in these circumstances as any delay in making an offer could be viewed as bad faith.

Applying this legal framework to the facts, the court determined that a jury could reasonably conclude that the Lodge’s liability was clear even before the negligent security claim was filed. Key facts included the Lodge’s volunteer security allowing two hostile groups into an unmonitored and dark parking lot, a second fight erupting almost immediately, and the fatal shooting occurring within ten to fifteen minutes of their removal from the Lodge. The court also noted that part of the assessment involves comparing the anticipated damages to any applicable sublimit.

Discussion

The *Pride of St. Lucie Lodge* decision reinforces the crucial duty imposed under Florida law on insurers to diligently and carefully investigate and evaluate claims. Insurers must act with the same degree of care that they would use in managing their own business or face consequences such as bad faith, particularly in situations like here, where the Lodge was facing clear liability and damages in excess of the policy’s sublimit.