

Bad Faith - Eleventh Circuit (Florida Law)

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Ilias v. USAA Gen. Indem. Co. 61 F.4th 1338 (11th Cir. 2023)

The U.S. Court of Appeals for the Eleventh Circuit reversed the decision of the district court granting summary judgment to an insurer, finding that issues of fact required the parties to go to trial.

USAA General Indemnity Company (USAA) issued an auto policy to Scott Dunbar (Dunbar). In July 2017, Dunbar lost control of his vehicle, causing a crash that resulted in serious injuries to Daniel Ilias (Ilias). USAA was put on notice of the crash the day it occurred, and accepted liability after determining that Dunbar was at fault for the accident.

The assigned adjuster communicated with Ilias and his attorney in the weeks following the accident. Subsequently, a new adjuster took over the case and, about a month after the crash, offered Ilias the \$10,000 per-person limit of the policy USAA issued to Dunbar. Ilias, thereafter, filed a lawsuit against Dunbar and was ultimately awarded a judgment exceeding \$5 million.

Ilias then commenced a lawsuit against USAA alleging a single count of bad faith in the handling of the claim. The trial court granted summary judgment to USAA, finding that even if USAA could have been considered negligent in handling the claim, its conduct did not constitute bad faith.

The appellate court reversed the trial court and remanded the coverage action for trial, reasoning that a question of fact remained because the insurer waited over one month to tender its policy limits where it had sufficient information to determine that it was required to tender its policy limits within days of the accident. Further, the appellate court reasoned that USAA failed to provide information to Ilias's attorney that may have facilitated settlement of the case, doing "nothing in its capacity as the 'go-between' to facilitate the exchange of that information or to seriously apprise its insured of the risk posed by an excess judgment." Such failure could be seen by the factfinder as causing or contributing to an excess judgment against Dunbar.

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