

Fourth Circuit Affirms That Insurer's Rejection Of Settlement Demands Did Not Violate State Law Duty To Act In Good Faith

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The Fourth Circuit ruled that an insurer did not engage in bad faith when it rejected two time-limited settlement demands. *Columbia Ins. Co. v. Waymer*, 2021 WL 2556586 (4th Cir. June 22, 2021).

A driver insured by Columbia Insurance struck another vehicle, seriously injuring both occupants. Shortly after the accident, counsel for the injured parties made a ten-day settlement demand for the \$1 million policy limit. Although Columbia Insurance had set a reserve on the claim for \$1 million in light of the severity of the accident, it rejected the offer based on the absence of medical records substantiating the extent of the claimants' injuries. Columbia Insurance sought and received authorization to access hospital records, but was unable to obtain documentation within the ten-day period, which expired without action.

A few months later, after receiving medical bills and records, Columbia Insurance offered to pay policy limits. The claimants rejected the offer and responded with a second demand, which alleged a violation of good faith and noted the possibility of tort recovery for all damages, even those exceeding policy limits. The offer, which included a fifteen-day deadline, proposed two options. One option contemplated litigation only on the bad faith claim, with damages limited to either \$1 million or \$3.5 million depending on outcome. The second contemplated litigation as to both liability and bad faith, and bound Columbia Insurance to a jury damage award, without any right to appeal that verdict as excessive. Columbia Insurance rejected both offers.

A jury ultimately awarded the claimants \$6.5 million. Columbia Insurance paid its policy limit and filed suit, seeking a declaration that its refusal to accept the first demand did not constitute bad faith under South Carolina law. The district court granted the insurer's summary judgment motion, and the Fourth Circuit affirmed.

The Fourth Circuit noted that while this "was likely a policy limits case" from the start, the ten-day deadline in the first demand did not afford Columbia Insurance sufficient time to validate the extent of damages. The court noted the absence of South Carolina precedent on whether a lack of time to investigate constitutes an objectively reasonable basis for refusing a policy limits settlement demand, but predicted that the South Carolina Supreme Court would find that an insurer must be afforded reasonable time to evaluate the risk of an excess judgment before accepting a settlement demand.

Additionally, the court concluded that the insurer did not act in bad faith in refusing the second settlement demand, which included “non-traditional” terms set by the claimants, including “the waiver of significant legal rights.” Addressing this matter of first impression under South Carolina law, the court deemed persuasive Florida state law holding that an insurer’s refusal to agree to such “unorthodox” settlement demands does not constitute bad faith.

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