
FLORIDA JUSTICE ASSOCIATION

Do Not Allow Insurance Companies To Act in Bad Faith

Under Florida law, all insurance companies have a duty to act in GOOD FAITH towards their policyholders. These laws protect Florida's homeowners, small business owners and motor vehicle operators who purchase liability policies. This good faith duty requires the insurance company to:

- **Promptly investigate and evaluate** all property, commercial, motor vehicle or other insurance claims against their policyholders;
- Whenever possible, promptly **settle claims filed against their policyholder** for an amount that is at or below the insurance contract policy limits; and
- Financially **protect their policyholders** from:
 - Judgments that are in excess of their insurance contract policy limits;
 - The exposure of their business and/or personal assets, and
 - Being forced to declare business and/or personal bankruptcy.

An insurance company acts in bad faith by refusing to accept a reasonable settlement offer or failing to inform the policyholder of the offer in a timely manner. As a result of such omissions, the insurance company exposes their policyholders to a court judgment that could exceed their policy limits.

Under a normal insurance contract, when a policyholder receives an "excess judgment," the policyholder is "on the hook" and must pay the full amount over the policy limits out of their own pockets. However, if a policyholder can prove in a subsequent lawsuit that their insurance company has acted in bad faith by failing to settle the claim against the policyholder when it could and should have, the insurance company – not the policyholder – must pay the judgment in excess of the policy limits.

BAD FAITH PROTECTIONS = GOOD PUBLIC POLICY

Current law is good public policy and fair to both the insurer and the insurance consumer. Policyholders pay premiums to insurance companies for legal and financial protections and grant their insurers exclusive control over all decisions to investigate, evaluate and settle claims against the policyholder, or, when necessary, to litigate on their behalf. In return, insurance companies are only required to make a prompt and honest effort to protect their policyholders from being exposed to judgments in excess of their policy limits. To do otherwise is to betray the trust placed in them by their policyholders by exposing them to the potential of financial ruin. The issue here is not of reforming tort law—the issue is one of increasing the risks to Florida business if insurance companies are permitted to shirk their responsibilities.

Good faith duties are imposed on insurers to give them an incentive to put the best interests of their policyholders above those of the insurance company. A policyholder should never face excess judgment simply because the insurer failed to do the job it was paid premiums to do. Insurance companies that are unwilling to accept this responsibility have no business accepting premiums from Florida policyholders.