



Insurance Practice Alert

McCandlish Holton Morris Litigation Practice Group

Important 'Bad Faith' Opinion from Virginia Supreme Court

May 4, 2017

On Friday, April 27, 2017, the Virginia Supreme Court decided *Manu v. GEICO Casualty Company*, Record No. 160852, 2017 Va. Lexis 70 (Va. April 27, 2017), a "bad faith" opinion significant to insurers that issue family automobile policies in Virginia.

Plaintiff was a passenger in a car involved in a multi-vehicle accident. Plaintiff sued the driver of his vehicle plus the unknown "John Doe" driver of another vehicle involved in the accident. Plaintiff made a UM claim against GEICO, his insurance company, which appeared and defended John Doe. GEICO rejected plaintiff's pre-trial settlement demand. Plaintiff then obtained a verdict against John Doe. In a subsequent "bad faith" suit, Plaintiff sued GEICO, alleging it failed to evaluate, adjust, and settle his UM claim in good faith. He sought as damages his legal fees, interest, and the uncompensated part of the underlying judgment.

The Virginia Supreme Court held that the UM statute did not obligate a UM insurer to pay until the plaintiff obtained a judgment in his favor. As a result, there could be no "bad faith" conduct by an insurance company when evaluating a claim and deciding whether to settle it.

This is an important decision for insurance companies handling UM claims in Virginia invoking Virginia policies. The Supreme Court resolved an issue in favor of insurers that had caused some confusion in lower courts. There is the possibility that the opinion may catch the attention of the legislature. Furthermore, the question of whether there can be "bad faith" when adjusting an underinsurance claim was not addressed by this opinion. It was, however, favorably resolved like *Manu* in an unpublished order issued the same day. *Conner v. Glasgow*, Record No. 160611, 2017 Va. Unpub. Lexis 10 (Va. April 27, 2017).

If you need assistance with a UM/UIM claim or need guidance on developments in insurance law, please contact one of the McCandlish Holton Morris litigation attorneys listed below.

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