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In re Miller

Breach of Contract Is Predicate for Bad Faith Claims.

In re Miller, 202 S.W.3d 922 (Tex. App-Tyler Sept. 29, 2006, n.p.h.) involved Jonathon Miller's claim for uninsured motorist ("UM") benefits under his auto policy after his car was rear-ended. Miller alleged medical expenses of \$6,650, but State Farm offered only \$5,000 to settle the claim. Miller then sued for breach of contract. In his first amended petition, however, Miller dropped his breach of contract claim and alleged only causes of action for statutory and common-law bad faith. Miller also refused to stipulate that he was waiving his contract claim. State Farm brought a counterclaim for declaratory judgment on the contract and then moved to sever and abate Miller's bad faith claims. The trial court granted State Farm's motion and Miller filed a petition for mandamus.

The court of appeals denied Miller's petition because Miller was unable to show that the trial court abused its discretion in granting the severance and abatement. The court noted that, to the contrary, Texas case law supports severance and abatement of bad faith claims in the UM context, particularly when the insurer has offered to settle the contract claim. The more interesting aspect of the case actually involved dicta that were not directly related to the "abuse of discretion" issue. The court rejected Miller's argument that he need not prevail on the contract claim prior to pursuing his bad faith action: "No matter how liberally we might construe an insurance code provision, a contract underlies any cause of action involving insurance. This is an inescapable fact." Thus, the difference in the limitations period for contract and bad faith claims was irrelevant to the decision of whether the claims could be tried together. The court's dicta also suggest that a UM claimant cannot maintain bad faith causes of action without also bringing a breach of contract claim.