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Insureds' Delay in Submitting to EUO Precluded Bad Faith/Delay of Payment Claim - - Insurance Company Not Required to Justify Request for EUOs

In a case before the Beaumont Court of Appeals, the court affirmed summary judgment in favor of the homeowner's insurance carrier, Fire Insurance Exchange ("FIE"), in a bad faith case in which plaintiffs' claimed that payment was unreasonably delayed when not made until after FIE received the sworn transcripts of the policyholders' EUOs. *Trahan v. Fire Insurance Exchange*, 179 S.W.3d 669 (Tex. App. -- Beaumont 2005, no pet.).

The *Trahan* case involved a fire loss that occurred on December 31, 2000 in which the policyholders' home and auto were destroyed. A Proof of Loss form was signed on February 8, 2001 and sent to FIE. FIE forwarded a written request for examinations under oath ("EUOs") to the Trahans on February 14, 2001. The Court noted that the Trahans did not respond to the February 14 request "or most of FIE's subsequent requests." The EUOs were finally secured on August 29, 2001 and the transcripts were sworn to and signed by the Trahans on September 20, 2001. Within fifteen days of receiving the sworn EUO transcripts, FIE accepted the fire loss claim and issued checks for the claim.

In the ensuing breach of contract and bad faith claim, the Trahans argued that FIE committed bad faith by performing an outcome oriented or biased investigation in an attempt to prove that the Trahans destroyed their home by incendiary fire. In affirming summary judgment in favor of FIE, the Court recognized that insurance policy provisions requiring an insured to submit to an EUO as a condition precedent are valid. The Court went on to find that the language of the insurance policy did not support the Trahans' position that FIE was required to justify its request for EUOs with evidence supporting a reasonable suspicion of arson. To the contrary, the Court held that "the language of the policy does not require that FIE suspect arson before requiring the Trahans to submit to EUOs."