COURT REVERSES PUNITIVE DAMAGE VERDICT AGAINST INSURER

September 29, 2016 | Law Alerts, News

A motorcyclist was injured when he slammed into a car that had stopped abruptly in front of him. Although the driver of the car was uninsured, the motorcyclist had uninsured motorist coverage. The motorcyclist's insurer denied the claim, however, because it concluded the motorcyclist was solely at fault in the accident. A jury found that the insurer breached the duty of good faith and fair dealing by unreasonably investigating and denying the motorcyclist's claim for coverage (failing to investigate whether the driver was partly at fault), and awarded the motorcyclist $500,000 in compensatory damages and $1 million in punitive damages. The court of appeals upheld the compensatory award, as evidence in the record supported the conclusion that the insurer did not reasonably investigate the motorcyclist's and driver's percentages of fault.

The court reversed the punitive damage award, however, because the record lacked evidence that the insurer's motive was spiteful, malicious, fraudulent or evil, or that the insurer consciously and deliberately disregarded the interests of others. The Sobieskis did not question American Standard's claims-handling policies, however. Instead, they argued that five areas of the insurer's business documents compelled the claims handlers to favor corporate profits at the expense of its insureds: business plans, incentive-pay programs, employee performance reviews and personnel files, claims-manager training materials, and a mandate that claims employees should focus on comparative fault in adjusting claims. The Sobieskis likened their case to *Nardelli v. Metropolitan* (Ct. App. 2012), in which punitive damages against the insurer were upheld.

The court disagreed and found *Nardelli* distinguishable. In *Nardelli*, the company had an aggressive company-wide profit goal of $155 million, told claims professionals that their jobs were in jeopardy if the company did not meet this goal, and tied each claims office's compensation, and thus each individual's compensation, to average claim payouts. Claims offices were given incentive pay based on whether they limited payouts. Here, American Standard did not set arbitrary goals for claims payouts and did not tell adjustors to keep profits in mind when settling claims. Nor was there evidence that the compensation of the claims office handling the Sobieski claim was tied to its success in limiting payouts. Likewise, neither the claims managers' training materials nor the employees' personnel files reflected demands to meet company profit goals, or to deliberately short-change insureds to improve company profits. The materials instead focused on customer service.

An insurer does not open itself to punitive damages, said the court, simply by taking steps to monitor profitability. Instead, the insured must show clear and convincing evidence that the insurer's concern for profits drove the company to breach its duty of good faith and fair dealing to the insured. Here the Sobieskis' citation to isolated phrases in business plans and other records was insufficient to constitute the clear and convincing evidence required to support their claim for punitive damages

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