

# [Alexandra Sims v. State Farm Automobile Ins. Co.](#)

Year: 2017

Court: U.S. Court of Appeals, 8th Circuit

Case Number: 17-1333

Drivers who purchase underinsured motorist coverage expect that they are protecting themselves against disaster from at-fault drivers who don't carry liability insurance or whose policy limits are too low to cover the damages. When an insurance company refuses to indemnify the policyholder for damages exceeding the policy limits of the at-fault driver or offers an arbitrary settlement, forcing the policyholder to litigate in order to recover contractually obligated benefits, that is evidence of bad faith. The majority of states, including Arkansas, require that insurance companies act in good faith towards their policyholders. In Arkansas, an insurance company acts in bad faith if the policyholder can prove it committed an act of misconduct that was dishonest, malicious or oppressive in an attempt to avoid liability under the policy. Thus, an insurance company may commit bad faith by refusing to conduct an independent investigation, despite being required to do so by its own internal policy, and then offering an arbitrary settlement or by ignoring objective medical evaluation presented in the policyholder's claim. UP reminded the Court that well-established law in Arkansas does not limit bad faith conduct to malicious conduct; it also includes dishonest, or oppressive conduct. Thus, UP argued in its amicus brief that whether an insurance company has conducted a reasonable investigation of their policyholder's claims in good faith is a question of fact properly reserved for the jury to decide. Summary judgment is not appropriate for such a determination. UP also urged the Court to find, as a matter of first impression in Arkansas, that an insurance company's violation of its own internal protocols and claims manuals may be evidence of bad faith, thus such evidence should go to the jury. UPdate 9/5/18: the Eighth Circuit held the district court did not err in granting judgment to State Farm.

UP's brief authored pro bono by Kevin P. Green, Esq. and Katie A Hubbard, Esq. of Goldenberg Heller & Antognoli, P.C. and Executive Director Amy Bach, Esq. and Staff Attorney Dan Wade, Esq.

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