

## **Gordon Blackwell v. Foremost Ins. Co.**

Year: 2016

Court: California Supreme Court

Case Number: H042263

UP submitted a letter urging the California Supreme Court to grant review on a very important issue for homeowners: whether an insurance company whose policy contains an appraisal provision as a pre-requisite to a lawsuit, can litigate a case for two years and then on the eve of trial ask the court to dismiss the case because the appraisal never occurred. This is a draconian result and is contrary to well-establish California law that a defendant may not invoke a pre-suit arbitration provision once it has submitted to the court's jurisdiction. Otherwise, an insurance company can "test the waters" and then escape the lawsuit on a mere technicality. In the property insurance context this is especially important because appraisal can only address the actual cash value of items – it cannot adjudicate issues of bad faith and claims handling. In this case, the bad faith suit could not have been resolved through the appraisal process anyway so insisting on appraisal (thus dismissing the policyholders bad faith claim with prejudice) in this context is an absurd result.

UP's letter was authored by Executive Director Amy Bach, Esq. and Staff Attorney Dan Wade, Esq.