

Griffin Dewatering vs. Northern Insurance Company of New York

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Court: California Court of Appeal, 4th District, Division 3

Case Number: G036896

The genuine dispute doctrine should not apply when the insurer fails to investigate the insured's claim thoroughly and bases its denial of a duty to defend on an insufficient investigation. Indeed, the genuine dispute doctrine has no application to the duty to defend in circumstances where disputed facts establish a mere potential for coverage. That potential is the basis of the duty to defend and the insurer's refusal to assume that duty is bad faith as a matter of law. Moreover, even disputes regarding the law do not immunize the insurer from liability for bad faith where the insurer fails to thoroughly investigate the insured's claim and relies on the first available pretext to deny its duty to defend. Rather, only when the insurer thoroughly investigates both the facts and the law and thereby reaches an objectively reasonable and legitimate basis for denial of coverage does the genuine dispute doctrine apply.

UP's brief was written pro bono by Kurt A. Pasich, Cassandra S. Franklin and Stephanie A. Sullins of Dickstein Shapiro, LLP

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