

Scot and Joanna Sobieski v. American Family Ins. Co. et al

Year: 2017

Court: Arizona Supreme Court

Case Number: CV-16-0253-PR

In a brief supporting a petition for review, UP argued that when a reviewing court disregards a jury's finding that punitive damages were warranted in an insurance bad faith case, it is harmful to consumers. When an insurance company acts in bad faith, the discretion to award punitive damages is solely the province of the jury who hears the evidence during a trial. It follows that an appellate court should not vacate such an award when the evidence presented by the plaintiff at trial showed that the insurance company had a corporate strategy to deny or underpay legitimate claims to boost profits. Because insurance transactions occur on an uneven playing field, policyholders have very little leverage - other than the availability of punitive damages in bad faith actions - to ensure that insurance companies act fairly in settling claims. Without the deterrent effect of punitive damages, insurance companies can gamble that underpaying or denying legitimate claims will make them money (by paying less than that owe or nothing at all) and not expose them to any liability because it will be less likely that an aggrieved policyholder will be able to hire competent counsel to hold them accountable. In addition, if insurance companies are not penalized for such behavior in a individual case, it is likely that they will act in bad faith toward its other customers.

UP's brief was authored by Thomas B. Dixon, Esq. Of counsel: Executive Director Amy Bach, Esq. and Staff Attorney Dan Wade Esq.