

# Tamarin Lindenberg v. Jackson National Life Ins. Co.

Year: 2016

Court: Tennessee Supreme Court

Case Number: M2015-02349-SC-R23-CV

In many jurisdictions when an insurance company breaches an insurance contract, it not only is required to pay what it owed originally and wrongfully delayed or denied, it also must pay attorneys fees and punitive damages. The rationale is that if an insurance company only has to pay what it should have paid yet withheld benefits owing to an insured, it will not have an incentive to act in good faith with its policyholders. In addition, it is not fair to force an insured to hire an attorney to get its claim paid, only to have to pay a portion of its claim to the attorney. In Tennessee, punitive damages are capped. This is bad public policy. Imposition of a cap on punitive damages wrongly encourages well-funded insurers to compare the maximum dollar risk of denying valid claims with the anticipated increased profits such practices will generate. An economically rational insurer has less and less financial incentive to act in good faith as its wrongful profits increase in relation to the amount of an individual's actual damages, especially if the insurer knows that caps will protect it no matter how wrongful its conduct may be. Such callous calculations are the logical outcome of a system in which punitive damages lack a real world deterrent function because they are capped. After the landmark U.S. Supreme Court decision in *Campbell v. State Farm*, which according to some commentators limits the amount of punitive damages to no more than a 9:1 ratio to compensatory damages (the policy benefits) judges across the nation have been more willing to reduce large punitive damage awards and legislatures, such as in Tennessee, have imposed statutory caps on punitive damages. The goal is to discourage litigation (so-called "tort reform") but the practical impact is that insurers (or any bad corporate actors) can line item expense their punitive damages exposure, and as described above, weigh the profit v. the risk of denying valid claims with certainty. This serves no deterrent function (the goal of punitive/extra-contractual damages) and is harmful to consumers. Thus, UP urged the Tennessee Supreme Court to find punitive damages caps unconstitutional.



UP's brief was authored pro bono by J. Brandon McWherter, Esq. and Emily S. Emmons, Esq. of Gilbert Russell McWherter Scott & Bobbitt PLC Of counsel: Amy Bach, Esq. and Dan Wade, Esq.

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