

## **USAA Texas Lloyds Company v. Gail Menchaca**

Year: 2016

Court: Texas Supreme Court

Case Number: 14-0721

The Texas Insurance Code allows for a private right of action for bad faith when an insurance company violates certain claims handling standards. One of these standards is a failure to conduct a reasonable investigation of a claim. This is sufficient for a policyholder to bring a cause of action for bad faith and recover the policy benefits wrongfully withheld. This has been the rule in Texas for decades. In this case, the insurance company is asking the highest court in Texas to impose a new requirement that is not in the code – an independent injury. Put another way, under this standard a policyholder must show some injury independent of the violation of the code, such as a breach of the policy itself or?, to bring a suit for damages. UP reminded the Texas Supreme Court that the code does not contain such a standard, nor is it found anywhere in case law. Notwithstanding, such a requirement is vague, unworkable and if adopted would allow unscrupulous insurance companies to use their superior position to take advantage of their insureds and face no consequence for failing to meet its statutory obligation to act in good faith and thoroughly investigate claims. UPdate 4/7/2017: The Court rejected the maximalist position pushed by insurers that absent an independent injury, there can be no statutory bad faith claims. Policy benefits can be the actual damages that trigger statutory bad faith remedies. And the Court made clear that if bad-faith conduct by the insurer caused the insured to lose the rights to benefits under a policy. The Court also said that even if insured is not entitled to benefits under policy, she can still recover bad faith damages if the conduct causes damages independent of the right to recover policy benefits. See opinion below.

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