California Court of Appeal holds that an arbitration clause is not a bar to a claim for bad faith

Policyholders achieved a rare victory in *Maslo v. Ameriprise,* B294271, Court of Appeal, Second Appellate District, Division Four, June 27, 2014 (227 Cal.App 4th 626). The plaintiff, Ted Maslo, was injured in a car crash by an uninsured motorist. After filing for UIM benefits under his own policy, Maslo was forced into arbitration by his insurer, Ameriprise Financial (IDS Property and Casualty Co.). Maslo was awarded $164,000 in arbitration, despite asking for the policy limit of $250,000 and sustaining injuries in excess. Maslo filed a complaint against Ameriprise for breach of the covenant of good faith and fair dealing (bad faith) for failure to properly investigate his claim before proceeding to arbitration. Ameriprise demurred, contending that arbitration was the proper forum to determine the scope and extent of Maslo's injuries and thus the proper measure of benefits awarded. The legal issue in the case was whether a claim for bad faith is proper when an insured presents evidence of a valid claim and the insurer demands arbitration. The Court of Appeal held that an arbitration clause does not relieve an insurer of its duty to fairly investigate a valid claim. Further, the Court of Appeal rejected the insurer's argument that it may escape liability for bad faith when the amount tendered in arbitration was less than the policy limits. The Court of Appeal went one step further, finding that by its actions, the insurer had made arbitration inevitable and settlement almost impossible. Accordingly, the Court of Appeal reversed the decision of the Superior Court to sustain Ameriprise's demurrer and dismiss the case.

UP is pleased to see that the Court of Appeal sided with policyholders on the arbitration issue. As arbitration and mediation become the preferred dispute resolution forums for insurance claims, it is important to ensure that they are not overused or misused. While the arbitration proess can serve the interests of judicial economy, it is important that insurers are still held accountable to their legal obligations, particularly the duty of good faith and fair dealing and the duty to fairly investigate valid claims, and that adequate safeguards are in place to protect policyholders. While most courts will uphold

arbitration clauses in insurance contracts, it is comforting to see that at least one court understands their proper use. Basic tenets of contract law and insurance law require that insurers fairly investigate valid claims before forcing the policyholder into arbitration. As the Court of Appeal noted, forcing a policyholder into arbitration before or instead of fairly investigating a valid claim makes settlement almost impossible, which is bad public policy. The decision affirms that an arbitration clause is not a bar to a claim for bad faith. Read the full decision here.