
June 4, 2020

Presiding J. Anthony Kline
Associate Justice James A. Richman
Associate Justice Marla J. Miller
First District Court of Appeal, First District
Division 2
350 McAllister St.
San Francisco, CA 94102

Re: *Fadeeff v. State Farm General Insurance Co.*, A155691 (May 22, 2020) – Request for Publication

Dear Honorable Justices:

Pursuant to CRC 8.1105 and 8.1120, I write to urge publication of the above-referenced opinion. As the Court will recall, the dispute below and the appellate litigation focused on application of the “genuine dispute” rule in the context of bad faith litigation relating to property claims.

The *Fadeeff* opinion significantly adds to the existing jurisprudence in this area in three ways justifying publication under CRC 8.1105(c)(2), (3), and (6) – it is appellants’ view that all of these subdivisions apply to each of the bases set forth below:

- First, the opinion provides a comprehensive framework for application of the genuine dispute rule in the context of summary judgment proceedings, and in particular when the rule is applied to factual disputes. The lower courts will benefit from *Fadeeff*’s thorough framework for application of the relevant law in a property insurance case. *Fadeeff* also correctly emphasizes the constraints that should apply to application of the genuine dispute doctrine to resolve bad faith cases without trial;
- Second, the opinion (both expressly and by example) underscores the importance of a comprehensive review of the record before summary

disposition of a bad faith case may properly rely on a claim of genuine dispute. As the Court held, whether the genuine dispute doctrine can be applied in cases involving factual disputes is decided on a case-by-case basis. *Fadeeff* emphasizes that such decisions necessarily involve a comprehensive review of the relevant evidence; and

- Third, the opinion properly emphasizes the significance to any “genuine dispute” analysis of bias evidence as relates to insurer consultants, a holding that will assist lower courts not only in considering dispositive motions, but also to resolve discovery disputes that commonly arise when insureds seek to unearth bias evidence in the face insurer summary judgment or adjudication motions that rely on consultants to assert genuine dispute as a matter of law.

For each and all of these reasons, publication of *Fadeeff* is warranted.

Sincerely,



Dylan Schaffer
Counsel for Appellants

Service by Truefiling; POS attached

PROOF OF SERVICE

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA,
FIRST APPELLATE DISTRICT, DIVISION 2, Appeal No. A154942

**LEONARD FADEEF ET AL. V. STATE FARM GENERAL
INSURANCE COMPANY**

I declare that I am over the age of 18 years and not a party to this action.
My business address is 1939 Harrison Street, #500, Oakland, CA 94612.
On June 4, 2020, I served on the following interested parties a true copy of
APPELLANTS' REQUEST FOR PUBLICATION

By TrueFiling:

Sandra E. Stone
Pacific Law Partners, LLP
2000 Powell Street, Suite 950
Emeryville, CA 94608

By Mail:

Mendocino Superior Court
Honorable Jeanine E. Nadel
100 North State Street
Ukiah, CA 95482

I declare under penalty of perjury under the laws of the State of California
and the United States that the foregoing is true, and if called as a witness I
could testify competently thereto.

Date: June 4, 2020

Kerley Schaffer LLP



Dylan L. Schaffer
Attorneys for Appellants

Document received by the CA 1st District Court of Appeal.