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California Reporter

Insurance

Insurer denied arson claim based on policy's fraud proviso

Case Type: Bad Faith, Business Law - Breach of Duty of Good Faith and Fair Dealing

Case: Bobby G. Watts and Mae Watts v. Farmers Insurance, No. BC216655

Venue: Superior Court of Los Angeles County, Central, CA

Judge: Elizabeth A. Grimes

Date: 03-04-2003

PLAINTIFF(S)

Attorney:

Joseph Andrews; Andrews & Hensleigh; Los Angeles, CA, for Bobby G. Watts, Mae Watts

Expert: None

DEFENDANT(S)

Attorney:

Jonathan B. Cole; Nemecek & Cole; Sherman Oaks, CA, for Farmers Insurance Exchange

Julie A. Covell; Nemecek & Cole; Sherman Oaks, CA, for Farmers Insurance Exchange

Expert: None

Plaintiffs Bobby Watts and his wife Mae Watts submitted a claim to Farmers Insurance Exchange for loss allegedly sustained as a result of a Jan. 13, 1998, arson fire to their property. The claim was denied in its entirety based upon the concealment and fraud provision of the subject policy. According to Farmers, Mrs. Watts had concealed from it that she had pleaded guilty to felony arson for starting a previous fire at the property. Farmers also believed that included in a sworn proof of loss submitted to it by the Wattses were items of personal property that they had claimed to a previous insurer were destroyed or damaged in a September 1995 fire at their property.

Summary judgment was entered against the Wattses and in favor of Farmers based in part upon the finding that the sworn proof of loss submitted to Farmers was fraudulent. The appellate court reversed as to Mr. Watts based upon the innocent co-insured rule (*Watts v. Farmers Insurance Exchange (2002) 98 Cal. App. 4th 1246*). The action proceeded to trial on Mr. Watts claims that Farmers breached the implied covenant of good faith and fair dealing by not considering his interests as separate from those of his wife.

Mr. Watts claimed that he did not participate in nor was aware of his wife's fraud. He stated that he had never returned inside the property after the September 1995 fire and was, therefore, unaware of what was damaged or destroyed in the September 1995 fire versus the January 1998 fire.

Farmers argued that Mr. Watts had executed the fraudulent sworn proof of loss declaring that everything therein was accurate and acknowledging that Farmers would rely thereon in adjusting the claim. Mr. Watts knew what was damaged and/or destroyed in the September 1995 fire versus the January 1998 fire, Farmers argued, in that Mr. Watts and his wife had discussed what was damaged and/or destroyed in the respective fires. Farmers stated that at all relevant times, the wife had acted as the agent of her husband in connection with the claim. At the time the claim was adjusted, Farmers contended that it was not required to consider the interests of each insured separately when applying the "concealment and fraud" provision of the subject policy.

Injury:

Mr. Watts claimed that he was owned 50% of the claim value as his community property interest.

Verdict Information: The jury found no breach of the covenant of good faith and fair dealing.