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Florida's Second District Court of Appeal Upholds Verdict in Favor of Insurer in Bad Faith Action

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In *Jane Hancock v. Florida Farm Bureau General Insurance Company,* No. 2D2024-1484, 2025 Fla. App. LEXIS 7105 (Fla. 2d DCA Sept. 19, 2025), Florida's Second District Court of Appeal upheld a verdict in favor of Florida Farm Bureau General Insurance Company ("FFB"), finding the trial court's jury instruction regarding causation was proper.

The bad faith action arose out of a fatal collision involving a vehicle operated by FFB's insured, which struck and killed a bicyclist. Almost immediately following the accident, FFB contacted the bicyclist's widow, and eventual personal representative of his estate, to discuss available insurance proceeds under the FFB policy. In the weeks that followed, the FFB adjuster continued to contact the personal representative, including going to her home on two occasions and taping an envelope containing a $50,000 check for the FFB policy limits to the front door. On both occasions, the FFB adjuster was not invited, the checks were returned, and contact between the personal representative and FFB ceased.

The bicyclist's estate subsequently filed a wrongful death action against the driver, which then proceeded to trial and resulted in a judgment in the amount of $13,550,592 against the insured driver. In the subsequent bad faith action, the estate argued that FFB used improper and harassing tactics to obtain a settlement, dissuading her from settling. FFB argued that it acted quickly after the accident, tendering its limits to the estate, and that nothing it did resulted in the excess judgment against the driver. Specifically, FFB argued that the case never would have settled because the personal representative wanted to punish the driver for the accident.

At the bad faith trial, attorneys for FFB and the estate disagreed over how jurors were to be instructed on the issue of causation. The estate initially argued for a standard jury instruction on concurring cause. *See* Florida Standard Jury Instruction (Civil) 404.6(b). FFB objected, proposing instead Florida Standard Jury Instruction (Civil) 404.6(a), which discusses causation generally. The estate then opposed giving any instruction on causation, arguing that the standard jury instruction for bad faith already encompasses causation by requiring a finding that the insurer "could and should have" settled. The estate also argued that if there were to be any instruction on the issue of causation, the instruction's focus should be on the cause of the failure to settle, not on the cause of the excess judgment. The trial court disagreed, adopting FFB's proposed instruction as follows:

In order for the actions of [FFB] to be considered bad faith, they must be the cause of the excess judgment against Desir[e]e Nathe.

Bad faith conduct is a legal cause of loss, damage, or harm if it directly, in a natural and continuous sequence, produces or contributes substantially to producing such loss, damage, or harm so that it can reasonably be said that but for bad faith conduct, the loss, damage, or harm would not have occurred.

The jury ultimately ruled that Florida Farm Bureau acted in bad faith, but that their conduct was not the cause of the excess judgment against the insured driver. The trial court entered a final judgment in favor of FFB.

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On appeal, the estate argued that the trial court's causation instruction and corresponding verdict form "went too far", arguing that it was erroneous and confusing to focus the jury's attention on the cause of the excess judgment, and that the focus should have been on the cause of the failure to settle the wrongful death claim. The Second District Court of Appeal, however, rejected the estate's arguments, noting that Florida precedent "instructs that bad faith requires a breach which 'results in an excess judgment,' and that the damages claimed – which in this case were the excess judgment – 'must be caused by the bad faith.'" (quoting *Perera v. U.S. Fid. & Guar. Co.,* 35 So. 3d 893, 899-901 (Fla. 2010).

The Second District Court of Appeal concluded that the trial court's causation instruction and verdict form were legally accurate and related to an element of the estate's claim that the parties heavily disputed at trial. The Court further concluded that the trial court did not abuse its discretion by giving a causation instruction or by including a causation instruction on the verdict form.

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