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Illinois Federal Court Addresses Preemptive Effect of § 155 of the Illinois Insurance Act

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In *Pramukhraj Huron LLC v. Selective Ins. Co. of Am.*, 2025 U.S. Dist. LEXIS 254959 (USDC SD IL, December 9, 2025), the United States District Court for the Southern District of Illinois addressed the preemptive effect of §155 of the Illinois Insurance Act on Plaintiff's Illinois Consumer Fraud and Deceptive Business Practices Act claim.

Plaintiff operated an Inn in Illinois and held a commercial insurance policy with Selective Insurance Company ("Selective"). Following a water pipe rupture which caused extensive water damage to Plaintiff's property, a claim was submitted to Selective. While Selective paid a portion of Plaintiff's claimed damages, Selective denied full payment, citing policy exclusions. Subsequent to the partial denial, Plaintiff filed suit alleging, among other things, Breach of contract and Violation of the Illinois Consumer Fraud and Deceptive Business Practice Act ("ICFA"). In its responsive pleading, Selective moved to dismiss Count 3 (ICFA) of Plaintiff's complaint.

Ruling in favor of Selective, the court found the ICFA claim preempted by §155 of the Illinois Insurance Act. Citing *Cramer v. Ins. Exch. Agency*, 164 Ill. 2d 560 (1996), the Court began its analysis by noting that an insurer's conduct can give rise to both a breach of contract and an independent tort claim, but mere allegations of bad faith or vexatious conduct are insufficient for an independent tort. Turning to the specifics of Plaintiff's IFCA claim, the Court held that to succeed on a claim for deceptive conduct under the ICFA, Plaintiff must allege (1) a deceptive act or practice, (2) intent on the defendants' part that plaintiff rely on the deception, and (3) that the deception occurred in the course of conduct involving trade or commerce. Review of Plaintiff's complaint showed that its ICFA claim was premised in the insurance policy when it alleged that "Defendant engaged in a deceptive act or practice by representing to Plaintiff that . . . the pipe failed from vibrations from the booster pump" and "Defendant made the statement as a pretext for refusing to indemnify Plaintiff for the loss". In light of these allegations, the Court concluded that Plaintiff failed to state a claim for an independent tort.

According to the Court, Plaintiff based its ICFA claim on Defendant's failure to pay in accordance with its obligations under the Policy. While Plaintiff attempted to shoehorn this failure into fraud by alleging Defendant intentionally misrepresented the cause of the pipe failure, the Court held that a claim that an insurer is lying after the fact to avoid paying a claim amounts to no more than a claim for denial of benefits and breach of contract, and is therefore preempted by §155. The court further noted that Illinois courts have found that an action which seeks damages identical to the relief available under the insurance policy is preempted by section 155. Because Plaintiff sought nothing more in its ICFA claim than what was sought in the breach of contract claim, the Court held that the alleged fraud "added nothing". Correspondingly, the Court held that Plaintiff's ICFA claim was preempted by §155 of the Illinois Insurance Act and must be dismissed.

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