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Oregon Supreme Court Allows Emotional Distress Based on Alleged Bad Faith

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Oregon has concluded that an insured in a first-party claim might be able to sue for negligent infliction of emotional distress in certain circumstances. This 4-3 ruling expands an insurer's potential liability when adjusting life insurance policies under Oregon law. Whether this expanded liability is limited to life insurance or extends to other types of first-party claims in Oregon remains to be seen.

Background

Moody v. Oregon Community Credit Union concerned a claim under a $3,000 life insurance policy that was initially denied because the policy excluded deaths "caused by or resulting from [decedent] being under the influence of any narcotic or other controlled substance." Apparently, the insured decedent had marijuana in his system when he died. The beneficiary then sued for bad faith and alleged negligent infliction of emotional distress. She specifically alleged the insurer had not conducted a reasonable investigation and had not attempted, "in good faith, to promptly and equitably settle a claim in which the insurer's liability has become reasonably clear," thus violating ORS 746.230(1)(d) and (f). The circuit court dismissed the negligent infliction of emotional distress cause of action. The insurer then paid the $3,000 benefit, but the beneficiary reserved the right to appeal the emotional distress dismissal.

Adjudication

On appeal, the majority decided not to apply prior Oregon case law, concluding a bad-faith claim denial was a breach of contract only that could not support a tort claim. They framed the issue as whether "ORS 746.230(1) imposes a legal obligation designed to protect insureds and their beneficiaries from the type of emotional harm that results from delayed payment of claims." The majority concluded the beneficiary had a legally protected interest sufficient to allow a tort claim for negligent infliction of emotional distress. They described the beneficiary's interest as "the surviving spouse of a deceased breadwinner, in having the insurance company with which she and her husband had contracted for life insurance benefits conduct a reasonable investigation of, and promptly pay, her claim for the promised benefits." The court then concluded the beneficiary had at least alleged facts that could support Oregon's elements for a negligent infliction cause of action.

The opinion ended with the court trying to limit the scope of its ruling. The court expressly wrote that "our conclusion here does not make every contracting party liable for negligent conduct that causes purely psychological damage, nor does it make every statutory violation the basis for a common-law negligence claim for emotional distress damages." The majority reasoned that life insurance presented a unique scenario: "Few contracting parties promise to provide necessary financial resources on the death of a spouse knowing that their obligation to act reasonably in doing so is required by statute. And few statutes impose obligations on contracting parties designed to protect the parties from the type of emotional harm that plaintiff in this case allegedly suffered."

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