

From: Jeffrey Epstein <jeevacation@gmail.com>

To: [REDACTED]

Subject: Re:

Date: Thu, 04 Aug 2011 21:16:25 +0000

rackel v. Allstate Ins. Co., 92 P.3d 882 (Ariz. Ct. App. 2004).

A jury may find abuse of process against an insurer where defendant had an improper intent during any of the court procedures and used the proceeding in a fashion inconsistent with its legitimate goals, an Arizona appellate court held.

Here, two people injured in an automobile collision sued a driver. The driver's insurer offered them a fraction of their medical expenses, in keeping with its policy of not settling "minor impact, soft tissue" claims, even though it acknowledged its insured was fully at fault.

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The parties went to arbitration, and the arbitrator awarded damages to plaintiffs. The insurer appealed the award. During a mandatory settlement conference, the court determined defendant was not acting in good faith because it told the court nothing would change its negotiating position, among other things. Eventually, the parties settled. Plaintiffs then sued for abuse of process, alleging defendant acted in bad faith. A jury found for plaintiffs, and the trial court denied defendant's motion for judgment as a matter of law.

Affirming, the appellate court noted that the elements of an abuse-of-process claim are (1) a willful act in the use of judicial process, (2) for an ulterior purpose not proper in the regular conduct of the proceedings. The court agreed with defendant that it is not enough to allege defendant had an improper motive throughout the entire legal process, without alleging specific actions during specific events. However, the court held abuse-of-process claims are allowed when a litigant has abused any of the entire range of court procedures incident to litigation.

Before an abuse-of-process claim may proceed, claimants must overcome two hurdles. First, the court determined, they must present specific evidence that the defendant has used court processes with an improper intent as the primary motivation, rather than merely an incidental motivation. Second, claimants must demonstrate the defendant took an action that could not logically be explained without reference to the improper motive, the court said.

In this case, plaintiffs presented evidence that defendant's refusal to settle stemmed from its policy to make it hard for claimants or attorneys to pursue litigation economically. The court said jurors could have concluded the primary purpose of defendant's conduct was to harass and intimidate claimants to discourage them from litigating. Moreover, the trial court found defendant's conduct during settlement negotiations to be in bad faith, which is contrary to public policy and was to the detriment of plaintiffs' right to pursue litigation.

Plaintiffs' Counsel

On Thu, Aug 4, 2011 at 11:09 PM, <[REDACTED]> wrote:
Their continued faith in abuse claim seems unwarranted

Sent from my Verizon Wireless BlackBerry

From: Jeffrey Epstein <jeevacation@gmail.com>

Date: Thu, 4 Aug 2011 21:08:23 +0200

To: Jay Lefkowitz<[REDACTED]>; Martin Weinberg<[REDACTED]>; Darren
Indyke<[REDACTED]>

Subject:

I seems more than a little odd, that my lawyers in florida, take over a complaint from critten, then file and amended complaint. , in the beginning telling me that we have to bolster damages. I am then told that the chances of losing on the MTD is negligible. . Im told this by my lawyers. , and now somehow I am on the hook for damages for filing the lawsuit. IT MAKES NO SENSE>

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