

## Texas Supreme Court Rules That Breach Of Insurance Policy Is Prerequisite To Insurance Code Claims

04.30.21



(Article from *Insurance Law Alert*, April 2021)

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The Texas Supreme Court granted an insurer's petition for writ of mandamus, holding that a plaintiff must establish an insurer's liability under an insurance policy in order to seek recovery on Insurance Code claims and that bifurcation of the breach of contract and Insurance Code claims is necessary. *In re State Farm Mutual Auto. Ins. Co.*, 2021 WL 1045651 (Tex. Mar. 19, 2021).

The Plaintiffs, who held underinsured motorist coverage with State Farm, were involved in automobile accidents and received settlement payments from other drivers' insurers. Following those settlements, State Farm refused to pay additional amounts sought by the plaintiffs. The plaintiffs sued, alleging failure to settle in good faith and failure to provide a reasonable explanation for claim denial, in violation of the Texas Insurance Code. The plaintiffs did not assert any common law breach of contract claims, but sought damages in the amounts owed under their respective State Farm policies. State Farm moved to bifurcate trial, arguing that an initial trial to establish liability under the policies was a prerequisite to liability under the Insurance Code. The Texas Supreme Court agreed.

The court rejected the plaintiffs' assertion that they could recover UIM benefits as extra-contractual damages without first establishing that they were legally entitled to recover under the policy if they were not asserting a breach of contract claim. The court explained that in order to seek damages under the Insurance Code, a party must either establish "a right to receive benefits under the policy," or "an injury independent of a right to benefits"—neither of which were established here.

In order to assert independent injuries, a party must establish that the insurer's violations "caused an injury apart from [its] failure to pay as much as the insureds believe they should have been paid under their UIM policies." The court deemed it irrelevant that plaintiffs' Insurance Code claims were not premised on a denial of benefits, and instead were based on failure to settle or provide reasonable explanation for denying the claims. The court explained: "the question is not whether the insured's *claims* are independent of the right to receive policy benefits. The question is whether the alleged '*damages*' are truly independent of the insured's right to receive policy benefits." (Emphasis in original). Because the only damages sought by plaintiffs were predicated on State Farm's contractual obligation under the policies, the court ruled that plaintiffs' "independent injury" theory failed.

Having concluded that plaintiffs must establish their right to policy benefits in order to recover under their Insurance Code claims, the court

further held that State Farm was entitled to bifurcation of trial. The court explained that bifurcation was warranted because it preserves judicial resources, eliminates conflicts relating to the admissibility of evidence, and avoids unnecessary prejudice to the insurer.

Authors and  
Contacts

Bryce Friedman  
Partner  
[bfriedman@stblaw.com](mailto:bfriedman@stblaw.com)  
[+1-212-455-2235](tel:+12124552235)

