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CASE SUMMARY: INSURER ORDERED TO PRODUCE ITS POLICIES, PROCEDURES, GUIDELINES AND INTERNAL DOCUMENTS CONCERNING HOW AN ACCIDENT BENEFITS CLAIM WAS HANDLED IN A BAD FAITH ACTION

Insurance law – Automobile insurance – Benefits – Motor vehicle accidents – Bad faith

Malloy v. Intact Insurance Co., [2019] N.S.J. No. 170, 2019 NSSC 131, Nova Scotia Supreme Court, April 29, 2019, J.S. Campbell J.

The insured was injured in a motor vehicle accident. The insurer accepted the claim for accident benefits, but denied reimbursement for a medical procedure. The insured commenced an action alleging bad faith and sought an order that the insurer produce its policies, procedures, guidelines, internal documents and other documents concerning how the insurer handled and resolved accident benefit claims. The insurer argued that the materials sought were irrelevant because there were no allegations concerning the insurer's policies and procedures.

The Court agreed that there would be no basis to order disclosure if the pleadings contained only a boiler plate allegation of bad faith with no specifics. However, the allegations in this case were not simple or boiler plate. Among other things, the insured alleged that the insurer denied her claim in an arbitrary manner without consideration of all medical evidence, allowed a lay person to interpret medical evidence while adjudicating her claim and ignored reports from the insured and physicians that demonstrated an entitlement to benefits under the policy. While there was no specific reference to policies and procedures, the Court held that evidence that the insured's claim was not reviewed and assessed in compliance with the insurer's policies and procedures would be relevant to determining if the insurer had acted in bad faith. The insurer was ordered to produce the documents sought.

This case was digested by [Michael J. Robinson](#), and first published in the LexisNexis® Harper Grey Insurance Law Netletter and the Harper Grey Insurance Law Newsletter. If you would like to discuss this case further, please contact Michael J. Robinson at mrobinson@harpergrey.com.