

WALKER WILCOX OBTAINS SUMMARY JUDGMENT FOR CLIENTS IN BAD FAITH FAILURE TO SETTLE LAWSUIT

On July 13, 2018, Walker Wilcox obtained summary judgment for Westport Insurance Corporation and its parent, SR Corporate Solutions America Holding Corporation ("SR Corporate"), in *Anastasios Papadopoulos v. Westport Insurance Corp.*, pending in the Court of Common Pleas of Philadelphia County, Pennsylvania.

In 2011, Plaintiff Papadopoulos filed a legal malpractice lawsuit against a Philadelphia-area attorney insured by Westport. That lawsuit resulted in an excess judgment against the insured. The parties subsequently settled, and, as part of the settlement, the insured assigned his purported bad faith claim to Papadopoulos who sued Westport and SR Corporate. Papadopoulos also sued defense counsel that Westport retained to provide a defense to the insured in the underlying lawsuit.

In the bad faith lawsuit, Papadopoulos alleged that Westport and SR Corporate failed to advise the insured of the exposure he faced and, along with defense counsel, improperly eroded the policy limits by defending the lawsuit rather than settling. After extensive discovery, Westport and SR Corporate moved for summary judgment, arguing that: 1) SR Corporate is not an "insurer" within the meaning of the Pennsylvania bad faith statute, 42 Pa. C.S.A. § 8371; and 2) plaintiff has not met his burden of establishing bad faith by clear and convincing evidence as required by Pennsylvania law. The court agreed with both arguments.

With respect to SR Corporate, the court ruled that it is "simply a holding company as its name suggests." Because Westport acted as the insurance provider, plaintiff could not assert a bad faith claim against SR Corporate.

With respect to Westport, the court cited to evidence developed in discovery that the insured was involved in all aspects of his defense and settlement. Westport reported regularly on defense costs incurred and the amount remaining in the policy. The policy also required that Westport obtain the insured's consent to settle and the court noted that "Westport never denied [its insured] the ability to extend an offer." The insured made the decision to go to trial, despite being fully apprised of the risks by Westport and defense counsel. In sum the court found that plaintiff failed to produce any evidence of bad faith conduct by Westport.

Westport and SR Corporate were represented by Walker Wilcox lawyers Robert Conlon and Doug Walker.