



Case Summaries February 2, 2024

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OPINIONS

INSURANCE

Appraisal Clauses

Rodriguez v. Safeco Ins. Co. of Ind., ___ S.W.3d ___, 2024 WL ___ (Tex. Feb. 2, 2024) [[23-0534](#)]

The U.S. Court of Appeals for the Fifth Circuit certified this question to the Supreme Court: “In an action under Chapter 542A of the Texas Prompt Payment of Claims Act, does an insurer’s payment of the full appraisal award plus any possible statutory interest preclude recovery of attorney’s fees?”

A tornado struck Mario Rodriguez’s home. His insurer, Safeco, issued a payment, which Rodriguez accepted. But Rodriguez claimed he was owed an additional sum and then sued, asserting breach of contract and statutory claims under the Insurance Code. The parties agreed that Chapter 542A would govern an attorney’s fees award for any of Rodriguez’s claims.

After removing the case to federal court, Safeco invoked the policy’s appraisal provision. The appraisal panel valued the damage, and Safeco paid that amount plus interest to Rodriguez. The parties’ remaining disagreement was whether Safeco’s payment of the appraisal award foreclosed an award of attorney’s fees under Chapter 542A.

The Court answered the certified question yes. Under Section 542A.007(a)(3), attorney’s fees are limited to reasonable fees multiplied by a specified ratio. The ratio is “the amount to be awarded in the judgment to the claimant for the claimant’s claim under the insurance policy” divided by the amount claimed in a statutory notice under Chapter 542A. The Court reasoned that, here, the numerator of the ratio is zero. The Court reasoned that no amount could be awarded in a judgment under the policy because Safeco had complied with its contractual obligation when it timely paid the full amount owed under the policy’s appraisal provision. Applying the statute’s plain text compelled the conclusion that attorney’s fees on Rodriguez’s claims were precluded. The Court rejected Rodriguez’s argument that this interpretation led to an absurd result because under the default American Rule, each side pays its own attorney’s fees.