

An Introduction to First-Party Insurance Claims



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Overview

Breach of
Contract In
First-Party
Cases

- Burden of Proof & Causation

Prompt
Payment of
Claims Act

- Deadlines in Tex. Ins. Code Chapter 542

Appraisal

- Texas Supreme Court Decisions

Bad Faith
Claims
(Statutory &
Common Law)

- Texas Insurance Code Chapter 541 & DTPA



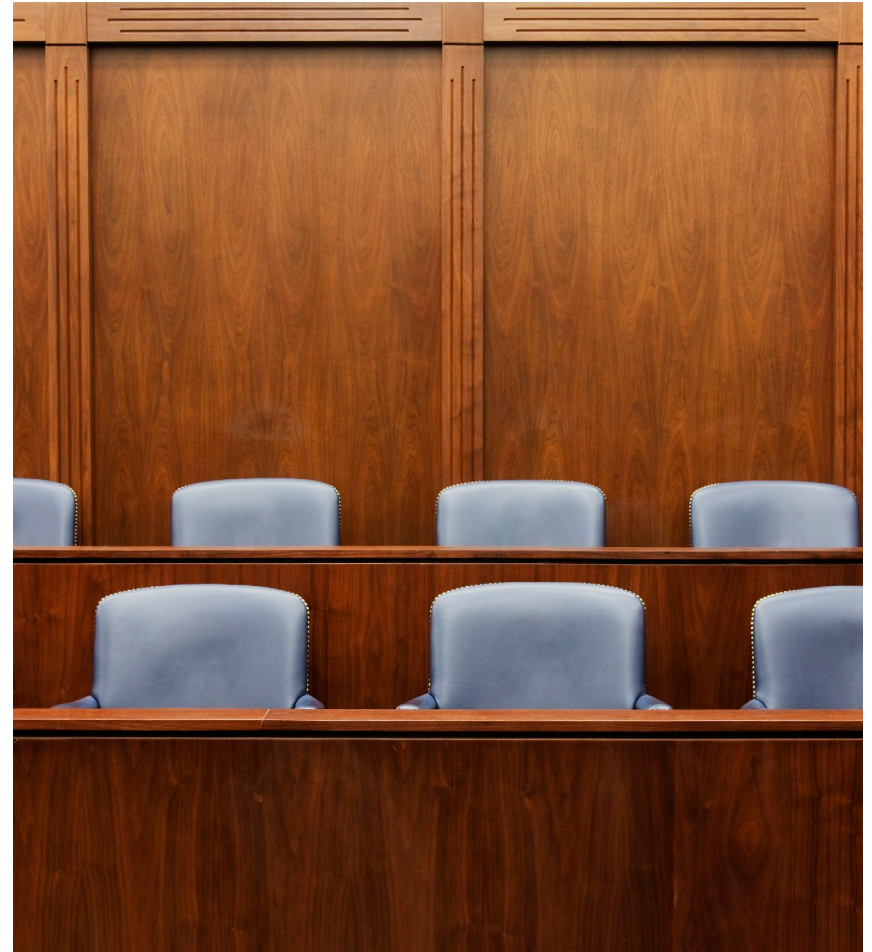
Breach of Contract

- Typical Breach of Contract Cause of Action
- Allegations
- Notice
 - Force of Nature Cases
 - § 542A.003
 - Non-weather related cases
 - § 541.154



Burden of Proof & Causation

- Burden of Proof
 - Policyholder
 - Burden Shifting
 - Policy Exclusions
 - Concurrent Causation
- Use of Experts
 - Engineers
 - Building Consultants
 - Meteorologist



Tex. Ins. Code Chapter 542

- Deadlines
 - Sections §§ 542.051-542.061
 - Acknowledging the Claim (§ 542.055)
 - Acceptance/Rejection of the Claim (§ 542.056)
 - Payment of the Claim (§ 542.057)
 - Delay In Payment (§ 542.058)
 - Extension of Deadline (§ 542.059)
 - Prompt Payment Interest (§ 542.060)

Appraisal



Policy Provision

Dispute to the Amount of Loss

Appraisal Award

Rodriguez v. Safeco Ins. Co. of Indiana

Bad Faith & DTPA

- Statutory & Common Law
- Duty of Good Faith & Fair Dealing
 - Texas Insurance Code Chapter 541 & DTPA
 - § 541.051; Private Action for Damages
 - Common Law
 - Same Predicate of Recovery
- Independent Injury
 - *USAA Texas Lloyds v. Menchaca*
 - “we in fact have yet to encounter one.”

In Review

- **Breach of Contract**

- Allegations
- Notice
- Exclusions
- Burden of Proof/Causation

- **Tex. Ins. Code 542**

- Acknowledgement
- Investigation
- Acceptance/Rejection
- Payment/Delay/Interest

- **Appraisal**

- Policy Provision
- Dispute to the Amount of Loss
- Appraisal Award
- Payment of the Award

- **Bad Faith & DTPA**

- Statutory & Common Law
- DTPA
- Independent Injury

Questions



Contact Information



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