

13-1704. Bad faith failure to settle.

An insurer [or agent] must act in good faith in determining whether to settle a claim against its insured. It must settle a claim against its insured when practicable. In deciding whether to settle a claim, an insurer must exercise honest, informed judgment and fairly balance its own interests and the interests of the insured. An insurer that fails to do so acts in bad faith. An insurer that acts honestly and fairly in not settling a claim, after conducting a diligent, competent, and reasonable investigation of the claim, is not liable for bad faith.

[When there is a substantial likelihood that a claim will result in a recovery that exceeds policy limits, the insurer has a good-faith duty to minimize, if not eliminate, its insured's liability.] [The insurer has a duty to accept reasonable settlement offers within policy limits.]

USE NOTES

This instruction must be given in any cause of action based on a bad faith failure to negotiate or settle a liability claim against the insured. The bracketed language about agents may be used in cases involving an adjuster, broker, or other person or entity acting as or on behalf of an insurer; the general term "agent" may be modified as appropriate to fit the facts of the case. The bracketed language about claims that pose a substantial likelihood of a recovery exceeding policy limits shall be used in cases involving claims that meet that description. The bracketed language about reasonable settlement offers shall be used in cases where the claimant made an offer to settle within policy limits.

[Adopted, effective November 1, 1991; as amended by Supreme Court Order No. S-1-RCR-2023-00028, effective for all cases pending or filed on or after December 31, 2023.]