

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JONATHAN COUTTS and MELISSA COUTTS	:	Civil Action No. 2:24-cv-05770
	:	
vs.	:	
	:	
STATE FARM FIRE AND CASUALTY	:	Jury Trial Demanded
COMPANY	:	

**MOTION FOR PARTIAL SUMMARY JUDGMENT**

Defendant, State Farm Fire and Casualty Company (“Defendant State Farm”), by and through its attorneys, Curtin & Heefner LLP, moves this Honorable Court to enter an Order in the form attached, granting Defendant State Farm Summary Judgment on Count II (Bad Faith) of Plaintiffs’ Amended Complaint, and in support thereof, Defendant State Farm avers the following:

**I. SUMMARY OF ARGUMENT**

This case arises from Plaintiffs’ homeowners insurance claim with Defendant State Farm after water allegedly entered their home on January 9, 2024. Defendant State Farm relied upon an independent expert claims consultant to inspect the roof and exterior, and it issued a payment to Plaintiffs to repair the interior damage and eleven (11) wind-damaged shingles. Plaintiffs, however, were unhappy with the amounts paid to them and have sued Defendant State Farm for Breach of Contract and Bad Faith.

Plaintiffs’ claim for Bad Faith must fail because Defendant State Farm’s evaluation and partial denial of Plaintiffs’ claim was correct. In fact, according to the expert hired during litigation, Defendant State Farm actually **overpaid** in this claim. However, Defendant State Farm need not prove that its claim handling and partial denial were correct. Rather, Plaintiffs must prove that Defendant State Farm lacked **any reasonable basis** for its claim handling and payments and that it knew of or recklessly disregarded its lack of reasonable basis. Here, where Defendant State

Farm's claim handling was not only correct but was based on the report of an independent expert, its actions certainly were reasonable, and Plaintiffs' claim for Bad Faith must be dismissed.

## **II. PROCEDURAL BACKGROUND**

1. Plaintiffs, Jonathan and Melissa Coutts ("Plaintiffs") commenced this action by filing a Complaint on September 23, 2024 in the Court of Common Pleas of Philadelphia County, Pennsylvania. See Complaint, attached as Exhibit "A"..

2. Defendant State Farm removed this matter to this Court on October 29, 2024. See Notice of Removal (ECF No. 1).

3. On November 5, 2024, Defendant State Farm filed a Motion to Dismiss Plaintiffs' Complaint. See Motion to Dismiss (ECF No. 4).

4. Plaintiffs filed an Amended Complaint on November 19, 2024. See Amended Complaint (ECF No. 7).

5. Defendant State Farm filed its Answer With Affirmative Defenses on December 9, 2024. See Answer With Affirmative Defenses (ECF No. 8).

## **III. FACTUAL BACKGROUND**

6. Defendant State Farm incorporates herein its Concise Statement of Facts in Support of Motion for Partial Summary Judgment ("Statement of Facts") as though fully set forth herein.<sup>1</sup>

7. Plaintiffs own the property located at 141 School Drive, Kintnersville, PA 18930 (the "Property"), which allegedly suffered a loss and damage as the result of wind and hail on January 9, 2024. See Statement of Facts at ¶¶ 7-8.

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<sup>1</sup> For the sake of brevity and to avoid repetition as much as possible, Defendant State Farm sets forth herein a brief outline of facts and refers the Court to the Statement of Facts for the complete factual background. All references to exhibits in the instant Motion for Partial Summary Judgment coincide with those identified in Defendant State Farm's Statement of Facts, which is being filed contemporaneously herewith.

8. Plaintiffs set forth claims against Defendant State Farm for Breach of Contract and Bad Faith. Id. at ¶ 6.

9. Defendant State Farm obtained photographs of alleged water damage to the interior of the Property and utilized Hancock Claims Consultants (“Hancock”) to perform a roof and exterior inspection of the Property on February 26, 2024. Id. at ¶ 9.

10. Based on the Hancock inspection and the photographs of the interior damage, Defendant State Farm prepared an estimate and issued a payment to Plaintiffs for \$2,606.71 (after a reduction of \$1,000.00 to account for Plaintiffs’ deductible), including shingle insert repairs for eleven (11) shingles. Id. at ¶ 10.

11. Plaintiffs did not agree with the amount paid by Defendant State Farm, and their public adjusters, Panzarella Public Adjusters, LLC (“Panzarella”), demanded appraisal of Plaintiffs claim under the terms and conditions of the Policy. Id. at ¶ 11.

12. Defendant State Farm advised Panzarella that appraisal was premature because Defendant State Farm had not received itemized documentation (such as a contractor’s estimate) of the specific dispute, so Plaintiffs produced an estimate prepared by Paramount Home Solutions which purportedly showed that the work required to bring the Property to pre-loss condition would cost \$59,106.17. Id. at ¶¶ 12-13.

13. On August 16, 2024, State Farm Claim Specialist Josh Herrington emailed Panzarella to explain Defendant State Farm’s coverage position and specifically explained that much of the damage to the roof being claimed by Plaintiffs appeared to be due to things like thermal cracking, granule loss due to wear, tear, and deterioration, and in some cases, mechanical damage, none of which were covered under the Policy. Id. at ¶ 15.

14. On August 30, 2024, Panzarella emailed Defendant State Farm to again voice his displeasure with the coverage decision and specifically acknowledged that he was not yet pursuing appraisal but instead would like Defendant State Farm to inspect the roof again. Id. at 16.

15. During the course of this litigation, Defendant State Farm retained expert Construction Consultant Steve D’Annunzio to perform a site inspection and make scope recommendations for any reported storm related damage. Id. at ¶ 17.

16. Mr. D’Annunzio concluded that the only repairs required to the Property due to storm-related damage were shingle insert repairs for two (2) shingles, and the removal and replacement of one (1) chimney flue cap. Id. at ¶¶ 18-19.

### III. LEGAL ARGUMENT

#### A. Legal Standard

17. Federal Rule of Civil Procedure 56 provides, in part, the following:

(a) **Motion for Summary Judgment or Partial Summary Judgment.** A party may move for summary judgment, identifying each claim or defense – or the part of each claim or defense – on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court shall state on the record the reasons for granting or denying the motion.

Fed. R. Civ. P. 56(a).

18. It is well-established that a motion for summary judgment may be granted if the pleadings, depositions, answers to interrogatories and admissions on file, affidavits, or other materials demonstrate that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c).

19. “The burden on the moving party is to show that there is an absence of evidence to support the non-moving party’s case.” See Peters Twp. School District v. Hartford Accident & Indemnity Co., 833 F.2d 32, 34 (3d Cir. 1987).

20. The non-moving party must supply something more than mere speculation or conjectures in order to avoid entry of judgment against it. Anderson v. Liberty Lobby Inc., 477 U.S. 242, 252 (1986); Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986); Writ, Miller & Kane, Federal Practice and Procedure: Civil 2d § 2727.

21. Although any evidence must be viewed in a light most favorable to the non-moving party, Lang v. New York Life Ins. Co., 721 F.2d 118, 119 (3d Cir. 1983), that party still bears the burden of showing that at trial it could proffer sufficient evidence to allow the fact-finder to believe in the “existence of [every] element essential to that party’s case.” Celotex, 477 U.S. at 322 (1986)

**B. Plaintiffs’ Claim for Bad Faith Must Be Dismissed.**

**i. Statutory Bad Faith Standard Generally**

22. Pennsylvania’s Bad Faith statute provides as follows:

In an action arising under an insurance policy, if the court finds that the insurer has acted in bad faith toward the insured, the court may take all of the following actions:

- (1) award interest on the amount of the claim from the date the claim was made by the insured in an amount equal to the prime rate of interest plus 3%;
- (2) award punitive damages against the insurer; and,
- (3) assess court costs and attorney fees against the insurer.

42 Pa. C.S.A. § 8371.

23. The Bad Faith statute itself does not define bad faith conduct. However, the Pennsylvania Superior Court has provided guidance as follows:

[T]he plaintiff must show that the defendant **did not have a reasonable basis** for denying benefits under the policy and that the defendant **knew or recklessly disregarded its lack of reasonable basis** for denying the claim.

Terletsky v. Prudential Property and Casualty Ins. Co., 649 A.2d 680, 688 (Pa. Super. 1994) (emphasis added).

24. In order to prosecute a claim for Bad Faith successfully, a plaintiff must plead, and ultimately prove, by **clear and convincing evidence**, facts that establish that an insurer lacked a reasonable basis for denying a claim and that the insurer knew or recklessly disregarded its lack of reasonable basis for denying a claim. *Id.* (“[B]ad faith must be proven by clear and convincing evidence and not merely insinuated”). See also Rancosky v. Washington Nat’l Ins. Co., 170 A.3d 364, 377 (Pa. 2017) (adopting the two-prong test articulated by the Superior Court in Terletsky).

25. As a result of the elevated “clear and convincing evidence” standard, the plaintiff must come forward with facts that support improper motive, recklessness, or bad faith which are “*clear, direct, weighty and convincing.*” See, e.g., Builder’s Square v. Saraco, 1997 WL 3205 at \*8 (E.D. Pa. Jan. 6, 1997), aff’d 135 F.3d 763 (3d Cir. 1997) (emphasis added) (citing Polselli v. Nationwide Mut. Fire Ins. Co., 23 F.3d 747, 752 (3d Cir. 1994)).

26. The mere fact that an insured disagrees with his or her insurer with respect to an insurance claim does not establish a Bad Faith claim. See, e.g., Nw. Mut. Life Ins. Co. v. Babayan, 430 F. 3d 121, 137 n.22 (3d Cir. 2005) (neither denial of a claim nor a low estimate of loss alone constitutes Bad Faith).

27. Importantly, “a reasonable basis is all that is required to defeat a claim of bad faith.” J.C. Penney Life Ins. Co. v. Pilosi, 393 F.3d 356, 367 (3d Cir. 2004).

28. Moreover, “mere negligence or bad judgment does not constitute bad faith; knowledge or reckless disregard of a lack of a basis for denial of coverage is necessary.” Frog, Switch & Mfg.v. Travelers Ins. Co., 193 F.3d 742, 751 n. 9 (3d Cir. 1999).

29. While an insurer has a duty to accord the interests of its insured the same consideration it gives its own interests, “an insurer is not bound to submerge its own interest in order that the insured’s interests may be made paramount, and an insurer does not act in bad faith by investigating and litigating legitimate issues of coverage.” J.C. Penney, 393 F.3d at 368.

30. Even questionable conduct giving the appearance of bad faith is not sufficient to establish bad faith so long as the insurer had a reasonable basis to deny coverage. Id. (affirming summary judgment in insurer’s favor on bad faith claim because there was a reasonable basis to deny coverage, even though insurer took inconsistent coverage positions in other situations and made false statements in its marketing materials). See O’Donnell v. Allstate Ins. Co., 734 A.2d 901, 906–10 (Pa. Super. 1999) (explaining that while bad faith “may also extend to the insurer’s investigative practices,” in the absence of evidence of a dishonest purpose or ill will, it is not bad faith for an insurer to take a stand with a reasonable basis or to “aggressively investigate and protect its interests”).

31. The insurer does not need to prove that it acted in good faith. Terletsky, 649 A.2d at 689-90.

32. “Thus, the plaintiff’s burden in opposing a summary judgment motion is commensurately high in light of the substantive evidentiary burden at trial.” J.C. Penney, 393 F.3d at 367.

**ii. Defendant State Farm’s Evaluation and Partial Denial of Plaintiffs’ Claim Was, At a Minimum, Reasonable, and Thus Defendant State Farm Did Not Commit Bad Faith.**

33. An insurance carrier can only act in bad faith if it **both** lacked a reasonable basis for its claim evaluation **and** manifested a reckless disregard for the rights of the insured. Terletsky, supra.

34. As long as Defendant State Farm’s evaluation of Plaintiffs’ claim and its coverage determination were reasonable, even an incorrect decision is not bad faith. See Bostick v. ITT Hartford Group, Inc., 56 F. Supp. 2d 580, 587 (E.D. Pa. 1999) (holding that “bad faith cannot be found where the insurer’s conduct is in accordance with a reasonable but incorrect interpretation of the insurance policy and the law”).

35. Moreover, simply because the investigation did not yield the result that Plaintiffs hoped for, does not mean that Defendant State Farm acted in bad faith. See Brickman Group, Ltd. v. CGU Insurance Company, 865 A.2d 918, 930 (Pa. Super. 2004) (one of the elements for a statutory cause of action for bad faith is that “the insurer lacked a reasonable basis for denying benefits”); UPMC Health System v. Metro Life Insurance Company, 391 F.3d 497, 506 (3d Cir. 2004) (the essence of a bad faith claim must be the unreasonable and intentional (or reckless) denial of benefits).

36. “Merely negligent conduct, however harmful to the interests of the insured, is recognized by Pennsylvania courts to be categorically below the threshold required for a showing of bad faith.” Greene v. United Servs. Auto. Ass'n, 936 A.2d 1178, 1189 (Pa. Super. 2007).

37. Furthermore, **an insurance company does not need to establish that “the process by which it reached its conclusion was flawless** or that the investigatory methods it employed eliminated all possibilities at odds with its conclusion. Rather, an insurance company simply must show it conducted **a review or investigation sufficiently thorough to yield a reasonable foundation** for its action” in order to defeat an insured’s claim for bad faith. Krisa v. Equitable Life Assurance Society, 113 F. Supp. 2d 694, 704 (M.D. Pa. 2000) (emphasis added); Cantor v. Equitable Life Assurance Society, 1999 WL 219786, at \*3 (E.D. Pa. Apr. 12, 1999); Doherty v. Allstate Indem. Co., 734 F. Appx 817, 823 (3d Cir. 2018) (mere inadvertence and mistakes in the handling of the claim without more do not constitute bad faith).

38. The facts and evidence in this case clearly show that Defendant State Farm’s handling of Plaintiffs’ claim, including its determination that not all of the damages claimed by Plaintiffs were covered under the Policy, was unquestionably reasonable.

39. Defendant State Farm used an independent expert consultant, Hancock, to inspect Plaintiffs' Property and relied on Hancock's report to formulate its estimate and net payment to Plaintiffs.

40. Upon receipt of Plaintiffs' appraisal demand, Defendant State Farm advised Panzarella that the demand was premature, but additional materials (such as a contractor's estimate) could be sent for review.

41. Defendant State Farm then reviewed the Paramount Home Solutions estimate and photographs and concluded that nothing contained in those items showed additional damage to the roof that Defendant State Farm had not accounted for.

42. In fact, Defendant State Farm clearly explained that much of the damage Plaintiffs were claiming to be storm-related actually was caused by thermal cracking, long term conditions, or mechanical damage (i.e., caused by human activity).

43. Indeed, according to Mr. D'Annunzio's expert report, Defendant State Farm actually **overpaid** for Plaintiffs' dwelling damages, as he opined that there was no storm-related damage to the Property's interior, and there were only two (2) storm-damaged shingles and one (1) storm-damaged chimney flue cap, whereas Defendant State Farm's estimate included interior damages and the replacement of eleven (11) shingles.

WHEREFORE, Defendant, State Farm Fire and Casualty Company, respectfully requests that this Honorable Court grant its Motion for Partial Summary Judgment, dismiss Count II of Plaintiffs' Amended Complaint with prejudice, and enter an Order in the form submitted herewith.

**iii. Defendant State Farm Relied on an Independent Expert in its Evaluation of Plaintiffs' Claim and Thus Did Not Commit Bad Faith.**

44. Where, as part of its investigation, an insurer like Defendant State Farm reasonably relies upon the conclusions of an independently retained expert, no claim for Bad Faith can exist.

See Bostick, 56 F.Supp.2d 580 (E.D. Pa. 1999) (where, as part of its investigation, an insurer reasonably relies upon the conclusions of an independently retained expert, no claim for Bad Faith can exist). See also Hamm v. Allstate Prop. & Cas. Ins. Co., 908 F. Supp.2d 656, 673 (W.D. Pa. 2012) (citing El Bor Corp. v. Fireman’s Fund Ins. Co., 787 F. Supp.2d 341, 349 (E.D. Pa. 2011)); Sanders v. State Farm Ins. Co., 47 Pa. D. & C.4<sup>th</sup> 129, 143 (2000); Palmisano v. State Farm Fire & Cas. Co., 2012 WL 3595276, at \*14 (W.D. Pa. Aug. 20, 2012) (the plaintiffs’ Bad Faith claim was dismissed where the claim is simply a dispute about the conclusions reached by an expert in his report rather than any Bad Faith mishandling of the investigation); Mann v. UNUM Life Ins. Co., 2003 U.S. Dist. LEXIS 23993 (E.D. Pa. November 25, 2003).

45. Pennsylvania courts reason that where an insurer like Defendant State Farm retains the services of an independent expert to determine the loss and reasonably rely upon the expert’s conclusion, such conduct does not rise to level of unreasonableness required to sustain a finding of Bad Faith. Id. See also Siedman v. Minnesota Mut. Life. Ins., 40 F.Supp. 2d 590 (E.D. Pa. 1997) (holding that “it is not bad faith for Mutual Life to rely on the IMEs of qualified health professionals who examined [plaintiff]”).

WHEREFORE, Defendant, State Farm Fire and Casualty Company, respectfully requests that this Honorable Court grant its Motion for Partial Summary Judgment, dismiss Count II of Plaintiffs’ Amended Complaint with prejudice, and enter an Order in the form submitted herewith.

Respectfully submitted,

CURTIN & HEEFNER LLP

Date: August 18, 2025

By:



Thomas L. Mueller, Esquire  
Attorneys for Defendant State Farm

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JONATHAN COUTTS and MELISSA COUTTS : Civil Action No. 2:24-cv-05770  
: :  
vs. : :  
: :  
STATE FARM FIRE AND CASUALTY : Jury Trial Demanded  
COMPANY :

**BRIEF IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT OF  
DEFENDANT, STATE FARM FIRE AND CASUALTY COMPANY**

Defendant, State Farm Fire and Casualty Company (“Defendant State Farm”), respectfully files this Brief in support of its Motion for Partial Summary Judgment.

**I. STATEMENT OF QUESTION INVOLVED**

Should the Court dismiss Plaintiffs’ Claim for Bad Faith against Defendant State Farm where the investigation of Plaintiffs’ claim and ultimate decision to partially deny the claim were, at a minimum, reasonable, and were based on an independent expert’s analysis?

**Suggested Answer: Yes.**

**II. SUMMARY OF ARGUMENT**

Defendant State Farm’s Motion for Partial Summary Judgment should be *GRANTED* for the following reasons:

- Plaintiffs cannot meet their burden of proving, by clear and convincing evidence, ***both*** that Defendant State Farm lacked a reasonable basis for denying benefits under the policy ***and*** that the defendant knew or recklessly disregarded its lack of reasonable basis for partially denying the claim; and

- Additionally, the evidence establishes that Defendant State Farm was, at a minimum, reasonable at all times during its investigation of Plaintiffs’ claim, where Defendant State Farm inspected the property via an independent claims consultant and issued a payment

based on the independent inspection, and an expert report obtained in this litigation highlights not only the reasonableness of Defendant State Farm’s coverage decisions, but even the overbreadth of the same.

### **III. PROCEDURAL AND FACTUAL BACKGROUND**

Detailed summaries of the procedural and factual backgrounds are set forth as Sections II and III of Defendant State Farm’s Motion for Partial Summary Judgment, respectively, and in Defendant State Farm’s Concise Statement of Facts in Support of Motion for Partial Summary Judgment (“Statement of Facts”), all of which are incorporated herein by reference. References to Exhibits made in this Brief are made to the same Exhibits to which Defendant State Farm refers in its Statement of Facts.

### **IV. LEGAL ARGUMENT**

#### **A. Legal Standard**

Federal Rule of Civil Procedure 56 provides, in part, the following:

- (a) **Motion for Summary Judgment or Partial Summary Judgment.** A party may move for summary judgment, identifying each claim or defense – or the part of each claim or defense – on which summary judgment is sought. The court shall grant summary judgment if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law. The court shall state on the record the reasons for granting or denying the motion.

Fed. R. Civ. P. 56(a).

It is well-established that a Motion for Summary Judgment may be granted if the pleadings, depositions, answers to interrogatories and admissions on file, affidavits, or other materials demonstrate that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c).

“The burden on the moving party is to show that there is an absence of evidence to support the non-moving party’s case.” See Peters Twp. School District v. Hartford Accident & Indemnity

Co., 833 F.2d 32, 34 (3d Cir. 1987). The non-moving party must supply something more than mere speculation or conjectures in order to avoid entry of judgment against it. Anderson v. Liberty Lobby Inc., 477 U.S. 242, 252 (1986); Celotex Corp. v. Catrett, 477 U.S. 317, 322 (1986); Writ, Miller & Kane, Federal Practice and Procedure: Civil 2d § 2727.

Although any evidence must be viewed in a light most favorable to the non-moving party, Lang v. New York Life Ins. Co., 721 F.2d 118, 119 (3d Cir. 1983), that party still bears the burden of showing that at trial it could proffer sufficient evidence to allow the fact-finder to believe in the “existence of [every] element essential to that party’s case.” Celotex, 477 U.S. at 322 (1986).

**B. As a Matter of Law, Plaintiffs’ Claim For Bad Faith Must Be Dismissed.**

**1. Statutory Bad Faith Standard Generally.**

Pennsylvania’s Bad Faith statute provides as follows:

In an action arising under an insurance policy, if the court finds that the insurer has acted in bad faith toward the insured, the court may take all of the following actions:

- (1) award interest on the amount of the claim from the date the claim was made by the insured in an amount equal to the prime rate of interest plus 3%;
- (2) award punitive damages against the insurer; and,
- (3) assess court costs and attorney fees against the insurer.

42 Pa. C.S.A. § 8371.

While Pennsylvania’s Bad Faith Statute, 42 Pa. C.S.A. § 8371, does not define bad faith conduct, the Superior Court of Pennsylvania has explained:

[T]he plaintiff must show that the defendant did not have a **reasonable basis** for denying benefits under the policy and that the defendant knew or recklessly disregarded its lack of reasonable basis for denying the claim.

Terletsky v. Prudential Property and Casualty Ins. Co., 649 A.2d 680, 688 (Pa. Super. 1994) (emphasis added). See also Rancosky v. Washington Nat'l Ins. Co., 170 A.3d 364, 365 (Pa. 2017) (adopting the bad faith standard and test set forth in Terletsky).

The standard set forth in Terletsky requires a two-pronged test. Terletsky, 649 A.2d at 688. See also Luse v. Liberty Mut. Fire. Ins. Co., 411 F. Appx 462 (3d Cir. 2011); Johnson v. Progressive Ins. Co., 987 A.2d 781 784 (Pa. Super. 2009); Colella v. State Farm, 407 F. App'x 616 (3d Cir. 2011); Klinger v. State Farm Mut. Auto Ins. Co., 115 F.3d 230 (3d Cir. 1997). Part one of the Terletsky test requires proof that the insurer did not have a reasonable basis for denying benefits under the policy. Terletsky, 649 A.2d at 688. Under this view, the courts examine whether there was an objectively reasonable basis for benefits to have been denied. Id. Part two of the Terletsky test requires proof of *scienter* on the part of the insurer: it must be demonstrated that the insurer knew or recklessly disregarded its lack of reasonable basis for denying benefits. Id. It has been recognized that “there is a requisite level of culpability associated with a finding of bad faith.” Employers Mut Cas. Co. v. Loos, 476 F. Supp.2d 478, 490-91, 494 (W.D. Pa. 2007). The plaintiff must show that the insurer acted intentionally or recklessly.

Importantly, “a reasonable basis is all that is required to defeat a claim of bad faith.” J.C. Penney Life Ins. Co. v. Piloni, 393 F.3d 356, 367 (3d Cir. 2004). Moreover, “mere negligence or bad judgment does not constitute bad faith; knowledge or reckless disregard of a lack of a basis for denial of coverage is necessary.” Frog, Switch & Mfg. v. Travelers Ins. Co., 193 F.3d 742, 751 n. 9 (3d Cir. 1999).

While an insurer has a duty to accord the interests of its insured the same consideration it gives its own interests, “an insurer is not bound to submerge its own interest in order that the

insured's interests may be made paramount, and an insurer does not act in bad faith by investigating and litigating legitimate issues of coverage." J.C. Penney, 393 F.3d at 368.

Even questionable conduct giving the appearance of bad faith is not sufficient to establish bad faith so long as the insurer had a reasonable basis to deny coverage. Id. (affirming summary judgment in insurer's favor on bad faith claim because there was a reasonable basis to deny coverage, even though insurer took inconsistent coverage positions in other situations and made false statements in its marketing materials). See O'Donnell v. Allstate Ins. Co., 734 A.2d 901, 906–10 (Pa. Super. 1999) (explaining that while bad faith "may also extend to the insurer's investigative practices," in the absence of evidence of a dishonest purpose or ill will, it is not bad faith for an insurer to take a stand with a reasonable basis or to "aggressively investigate and protect its interests").

## 2. **Burden of Proof for Bad Faith.**

The burden of proof for a bad faith claim is not the "preponderance of the evidence" standard, which applies in most civil actions. On the contrary, in order to successfully prosecute a claim for bad faith, a plaintiff must prove a lack of reasonable basis **and** a reckless disregard by "clear and convincing evidence." Terletsky, 649 A.2d at 688. As a result of the elevated "clear and convincing evidence" standard, a plaintiff must come forward with facts that support improper motive, recklessness, or bad faith which are "*clear, direct, weighty and convincing.*" See, e.g., Builder's Square v. Saraco, 1997 WL 3205 at \*8 (E.D. Pa. Jan. 6, 1997), aff'd 135 F.3d 763 (3d Cir. 1997) (emphasis added) (citing Polselli v. Nationwide Mut. Fire Ins. Co., 23 F.3d 747, 752 (3d Cir. 1994).

The carrier does not have to prove that it acted in good faith. Terletsky, 649 A.2d at 689-90. “Thus, the plaintiff’s burden in opposing a summary judgment motion is commensurately high in light of the substantive evidentiary burden at trial.” J.C. Penney, 393 F.3d at 367.

3. **Defendant State Farm’s Evaluation and Partial Denial of Plaintiffs’ Claim Was, At a Minimum, Reasonable, and Thus Defendant State Farm Did Not Commit Bad Faith.**

An insurance carrier can only act in bad faith if it **both** lacked a reasonable basis for its claim evaluation **and** manifested a reckless disregard for the rights of the insured. Terletsky, supra. As long as Defendant State Farm’s evaluation of Plaintiffs’ claim and its coverage determination were reasonable, even an incorrect decision is not bad faith. See Bostick v. ITT Hartford Group, Inc., 56 F. Supp.2d 580, 587 (E.D. Pa. 1999) (holding that “bad faith cannot be found where the insurer’s conduct is in accordance with a reasonable but incorrect interpretation of the insurance policy and the law”).

Moreover, simply because the investigation did not yield the result that Plaintiffs hoped for, does not mean that Defendant State Farm acted in bad faith. See Brickman Group, Ltd. v. CGU Insurance Company, 865 A.2d 918, 930 (Pa. Super. 2004) (one of the elements for a statutory cause of action for bad faith is that “the insurer lacked a reasonable basis for denying benefits”); UPMC Health System v. Metro Life Insurance Company, 391 F.3d 497, 506 (3d Cir. 2004) (the essence of a bad faith claim must be the unreasonable and intentional (or reckless) denial of benefits).

“Merely negligent conduct, however harmful to the interests of the insured, is recognized by Pennsylvania courts to be categorically below the threshold required for a showing of bad faith.” Greene v. United Servs. Auto. Ass’n, 936 A.2d 1178, 1189 (Pa. Super. 2007).

Furthermore, **an insurance company does not need to establish that “the process by which it reached its conclusion was flawless** or that the investigatory methods it employed eliminated all possibilities at odds with its conclusion. Rather an insurance company simply must show it conducted **a review or investigation sufficiently thorough to yield a reasonable foundation** for its action” in order to defeat an insured’s claim for bad faith. Krisa v. Equitable Life Assurance Society, 113 F. Supp. 2d 694, 704 (M.D. Pa. 2000) (emphasis added); Cantor v. Equitable Life Assurance Society, 1999 WL 219786, at \*3 (E.D. Pa. Apr. 12, 1999); Doherty v. Allstate Indem. Co., 734 F. Appx. 817, 823 (3d Cir. 2018) (mere inadvertence and mistakes in the handling of the claim without more do not constitute bad faith).

The facts and evidence in this case clearly show that Defendant State Farm’s handling of Plaintiffs’ claim, including its determination that not all of the damages claimed by Plaintiffs were covered under the Policy, was unquestionably reasonable.

The gravamen of Plaintiffs’ claim for Bad Faith is that they complied with all of their obligations under the Policy, but Defendant State Farm has nevertheless failed to pay their claim in full. However, as set forth above, Plaintiffs’ dissatisfaction with the amounts paid by Defendant State Farm is not a sufficient basis for Plaintiffs’ Bad Faith claim to withstand summary judgment.

In Terletsky, the plaintiffs demanded \$100,000 each from an insurance company to settle an uninsured motorist claim. Terletsky, 649 A.2d at 682. After conducting an investigation, the insurer offered \$40,000 to one plaintiff and \$17,500 to the other. Id. at 689. An arbitrator eventually awarded the plaintiffs \$125,000 each. Id. at 682. The plaintiffs initiated a bad faith action against the insurer and alleged that the low settlement offers were indicative of bad faith. Id. at 689. The court disagreed and noted that the settlement offer, although significantly lower

than the eventual damages award, had taken into account “many factors,” including records supporting the injuries, damage to the vehicles, and the liabilities of the drivers. Id.

Other courts in this Circuit have reached similar conclusions. See, e.g., Smith v. State Farm Mut. Auto. Ins. Co., 506 Fed. Appx. 133, 136-37 (3d Cir. 2012) (noting that it is “not unusual” for parties to an insurance claim to disagree over the settlement amount but that “the failure to immediately accede to a demand for the policy limit cannot, without more, amount to bad faith”); Great Lakes Reinsurance (U.K.) PLC v. Stephens Garden Creations, Inc., 119 F. Supp.3d 297, 305 n. 9 (E.D. Pa. 2015) (“an insurer’s low but reasonable estimate does not evidence bad faith”); Rowe v. Nationwide Ins. Co., 6 F. Supp.3d 621, 630 (W.D. Pa. 2014) (“Plaintiffs have not produced clear and convincing evidence that Nationwide’s offer lacked a reasonable basis. To the contrary, Nationwide has demonstrated that its investigation and its offer were reasonable and based on medical records, expert reports, and other relevant information”).

Here, Plaintiffs appear to allege that because Defendant State Farm’s payments for storm-related damages are so far below Plaintiffs’ demand, Defendant State Farm’s adjustment of Plaintiffs’ claim constitutes bad faith. However, Plaintiffs’ argument fails because Defendant State Farm’s investigation and adjustment of Plaintiffs’ claim was thorough, timely, and eminently reasonable.

Defendant State Farm used an independent expert consultant, Hancock, to inspect Plaintiffs’ Property and relied on Hancock’s report to formulate its estimate and net payment to Plaintiffs. Upon receipt of Plaintiffs’ appraisal demand, Defendant State Farm advised Panzarella that the demand was premature, but additional materials (such as a contractor’s estimate) could be sent for review. Defendant State Farm then reviewed the Paramount Home Solutions estimate and photographs and concluded that nothing contained in those items showed additional damage tot

the roof that Defendant State Farm had not accounted for. In fact, Defendant State Farm clearly explained that much of the damage Plaintiffs were claiming to be storm-related actually was caused by thermal cracking, long term conditions, or mechanical damage (i.e., caused by human activity).

The eminent reasonableness of Defendant State Farm's coverage decision and net payment to Plaintiffs is further demonstrated by the report of Defendant State Farm's litigation expert, Steve D'Annunzio, which demonstrates that Defendant State Farm actually **overpaid** for Plaintiffs' dwelling damages, as he opined that there was no storm-related damage to the Property's interior, and there were only two (2) storm-damaged shingles and one (1) storm-damaged chimney flue cap, whereas Defendant State Farm's estimate included interior damages and the replacement of eleven (11) shingles. See Statement of Facts at ¶¶ 17-19.

To be clear, the main differences between Plaintiffs' alleged damages and those covered and paid for by Defendant State Farm center on Plaintiffs' argument that various long term and/or mechanical damages around the roof should be covered, whereas Defendant State Farm has pointed out that the Policy only covered accidental direct physical loss and does not cover losses resulting from things like wear, tear, and deterioration or mechanical damage. Simply put, the primary disagreements between the parties concern the extent of storm-related damage at the Property and the anticipated cost to repair such damages. Pursuant to the holdings described above, these disagreements, without more, are insufficient to sustain a cause of action for Bad Faith against Defendant State Farm.

In sum, Defendant State Farm's thorough investigation into Plaintiffs' claim vitiates Plaintiffs' claim for Bad Faith. See, e.g., Seto v. State Farm Ins. Co., 855 F. Supp.2d 424, 430-31 (W.D. Pa. 2012) (the defendant's alleged low estimate was provided after "inspect[ing] the property, creat[ing] an itemized estimate of damages," and considering a higher estimate provided

by another contractor); Terletsky, 649 A.2d at 689 (the defendant's low settlement offer was supported by a thorough investigation into the injuries and damages claimed by the plaintiffs).

Accordingly, Plaintiffs' claim for Bad Faith against Defendant State Farm must be dismissed.

**4. Defendant State Farm's Evaluation and Partial Denial of Plaintiffs' Claim Was Based In Part on an Independent Expert's Analysis, and Thus Defendant State Farm Did Not Commit Bad Faith.**

Where, as part of its investigation, an insurer like Defendant State Farm reasonably relies upon the conclusions of an independently retained expert, no claim for Bad Faith can exist. See Bostick, 56 F. Supp.2d 580 (where, as part of its investigation, an insurer reasonably relies upon the conclusions of an independently retained expert, no claim for Bad Faith can exist). See also Hamm v. Allstate Prop. & Cas. Ins. Co., 908 F. Supp.2d 656, 673 (W.D. Pa. 2012) (citing El Bor Corp. v. Fireman's Fund Ins. Co., 787 F. Supp.2d 341, 349 (E.D. Pa. 2011)); Sanders v. State Farm Ins. Co., 47 Pa. D. & C.4<sup>th</sup> 129, 143 (2000); Palmisano v. State Farm Fire & Cas. Co., 2012 WL 3595276, at \*14 (W.D. Pa. Aug. 20, 2012) (the plaintiffs' Bad Faith claim was dismissed where the claim is simply a dispute about the conclusions reached by an expert in his report rather than any Bad Faith mishandling of the investigation); Mann v. UNUM Life Ins. Co., 2003 U.S. Dist. LEXIS 23993 (E.D. Pa. November 25, 2003).

Pennsylvania courts reason that where an insurer like Defendant State Farm retains the services of an independent expert to determine the loss and reasonably rely upon the expert's conclusion, such conduct does not rise to level of unreasonableness required to sustain a finding of Bad Faith. Id. See also Siedman v. Minnesota Mut. Life. Ins., 40 F. Supp.2d 590 (E.D. Pa. 1997) (holding that "it is not bad faith for Mutual Life to rely on the IMEs of qualified health professionals who examined [plaintiff]").

Defendant State Farm relied upon the findings of independent expert claims consultant, Hancock. Even as Plaintiffs may argue that they retained a roofer who opined that more of the Property's roof was damaged by the storm, and Defendant State Farm ignored that conclusion, those arguments still are not sufficient to assert a claim for Bad Faith, as allegations that a carrier relied upon a report/estimate compiled by its own expert/consultant while ignoring a report/estimate provided by the policyholder do not establish a claim for Bad Faith. See, e.g., Pfister v. State Farm Fire & Cas. Co., 2011 WL 3651349, at \*1 (W.D. Pa. Aug. 18, 2011). Moreover, even if an expert incorrectly assessed the cause of damage, this is not evidence that his conclusions were unreasonable or that the insurer acted unreasonably in relying upon him. Totty v. Chubb Corp., 455 F. Supp.2d 376, 390 (W.D. Pa. 2006) (citing Pirino v. Allstate Ins. Co., 2005 WL 2709014, at \*5 (M.D. Pa. Oct. 21, 2005)).

As a result, Plaintiffs' Bad Faith claim fails as a matter of law as Defendant State Farm relied on the expert opinion of Hancock in the adjustment of the claim.

**V. CONCLUSION**

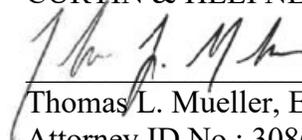
For the aforementioned reasons, Defendant State Farm respectfully requests that this Honorable Court grant its Motion for Partial Summary Judgment and enter an Order in the form attached hereto.

Respectfully submitted,

CURTIN & HEEFNER LLP

Date: August 18, 2025

By:



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