IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:25-cv-00900-GPG-STV

DHANESH RANJITKAR AND NIRMALA RANJITKAR,

Plaintiffs,

v.

OWNERS INSURANCE COMPANY,

Defendant.

DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

Defendant Owners Insurance Company ("Defendant" or "Owners"), by and through its counsel Adam P. O'Brien and Chan H. Park of Thomson, Coe, Cousins & Irons, LLP, submits its Motion for Summary Judgment as follows:

Certificate of Conferral: Conferral is not required. *See* D.C.COLO.LCivR 7.1(b)(3).

INTRODUCTION

Plaintiffs Dhanesh and Nirmala Ranjitkar ("Plaintiffs") commenced this action for alleged residential property damage that occurred on May 10, 2023 and seek damages against Defendant for the alleged improper denial of coverage under their insurance policy. The Complaint alleges claims for: (1) Breach of Contract; (2) Common Law Bad Faith; and (3) Statutory Bad Faith Pursuant to C.R.S. §§ 10-3-1115 and 10-3-1116.

After Owners received notice of Plaintiffs' insurance claim, an independent adjuster promptly inspected the property to assess the claimed property damage. Pre-

suit, based on the independent adjuster's findings and the parties' respective estimates, Owners issued the Plaintiffs actual cash value (ACV) payments for covered benefits, and reasonably relied on the independent adjuster's findings and the policy terms and exclusions on denying replacement cost value (RCV) payments at that time.[1]

Plaintiffs' claims must be dismissed because the undisputed facts establish that: (1) Plaintiffs did not satisfy the Policy requirements for Owners to issue RCV benefits; (2) Defendant's coverage decision was reasonable, and a mere disagreement on coverage or claim value is insufficient to support common law bad faith or violation of C.R.S. §§ 10-3-1115 and 10-3-1116; and (3) Plaintiffs cannot create a genuine issue of materials fact regarding a violation of insurance industry standards, which is required to sustain a claim for common law bad faith or violation of violation of C.R.S. §§ 10-3-1115 and 10-3-1116.

STATEMENT OF UNDISPUTED MATERIAL FACTS

1. Plaintiffs allege that the property, located at 7341 S. Mobile St., Aurora, Colorado 80016-1461 ("Property"), incurred hail and wind damage on or around May 10, 2023. **ECF No. 4 – Complaint, filed on February 18, 2025, at ¶¶8-9; ECF No. 15 – Scheduling Order, filed on May 29, 2025 at pg. 3, ¶2.**

2. Plaintiffs are the named insureds on a Homeowners Insurance Policy issued by Owners for the Property, policy number 54-202-671-01 ("Policy"), from December 5, 2022 through December 5, 2023, which provides coverage subject to the Policy's terms, conditions, provision, definitions, limitations, and exclusions. **ECF No. 15**

[1] Actual cash value (ACV) represents the value of the property at the time of the loss and is essentially replacement cost value (RCV) less depreciation.

– Scheduling Order, filed on May 29, 2025, at pg. 3, ¶1; Ex. A – Owners Insurance Policy at OWNERSRANJITKAR 000001.

3. The Policy provides the following, in relevant part:

WHAT TO DO IN CASE OF LOSS

1. PROPERTY

If a loss to covered property occurs, the **insured** must:

a. give **us** or **our** agency immediate notice.

b. protect the property from further damage or loss; make reasonable and necessary temporary repairs; and keep records of the cost.

c. make an inventory of all damaged and destroyed property; show in detail quantifies, costs, **actual cash value** and amount of loss claimed; attach to the inventory all available bills, receipts and related documents that substantiate the figures in the inventory.

d. send to **us**, within 60 days after **you** notify **us** or **our** agency of the loss, a proof of loss signed and sworn to by the **insured,** including:

1) the time and cause of loss;
2) the interest of **insureds** and all others in the property;
3) **actual cash value** and amount of loss to the property;
4) all encumbrances on the property;
5) other policies covering the loss;
6) changes in the title, use, occupancy or possession of the property;
7) if required, any plans and specifications of any damaged building or fixtures; and
8) the inventory of all damaged or stolen property required by **1.c.** above.

e. exhibit the damaged property to **us** or **our** representative as often as may be reasonably required.

f. cooperate with **us** and assist **us** in any matter relating to a claim.

Ex. A –Owners Insurance Policy at OWNERSRANJITKAR 000033-34.

4. The Policy provides the following conditions for payments on actual cash value and replacement cost value bases:

6. CONDITIONS

b. How Losses Are Settled

(2)(a) If the damaged covered property is insured under **Coverage A – Dwelling** or **Coverage B – Other Structures** … **we** will pay the full cost to repair or replace the damaged part of such covered property. No deduction will be made for **depreciation**. In no event will **we** pay more than the smallest of:

1) the limit of insurance applying to the damaged covered property;

2) the cost to replace the damaged covered property with equivalent construction for equivalent use at the **residence premises** or at another premises. However, if **your** dwelling is replaced at other than the **residence premises**, the cost is limited to the cost which would have been incurred if **your** dwelling was replaced at the **residence premises**; or

3) the amount actually spent to repair or replace the damaged covered property.

(2)(b) If **you** do not repair or replace the damaged covered property, **we** will pay the **actual cash value** of the property at the time of loss.

(2)(d) **You** may disregard the provisions of **b.(2)(a)** above and make an **actual cash value** claim for loss or damage to property covered under **Coverage A – Dwelling** and **Coverage B – Other Structures**. If **you** do, **you** may make a further claim under the provisions of **b.(2)(a)** above, provided **you** notify **us** of **your** intent to repair or replace the damaged covered property within 180 days after the initial **actual cash value** payment. However, to receive additional payment **you** must:

1) complete repair or replacement of the damaged covered property within two years after the date of loss; and

2) notify **us** within 30 days after the repair or replacement has been completed.

Ex. A – Owners Insurance Policy at OWNERSRANJITKAR 000026-27.

5. Plaintiffs did not maintain, repair, inspect, or replace the roof of the Property. **Ex. B – Plaintiff Dhanesh Ranjitkar's deposition transcript at 26:6-11; Ex. C - Plaintiffs' Objections and Answers to Defendant's First Set of Interrogatories at pg. 5, nos. 7 through 9; Ex. D - Plaintiffs' Objections and Responses to Defendant's First Request for Admissions at pg. 3, no. 1.**

6. Plaintiffs did not make any repairs to the Property after the date of loss, May 10, 2023. **Ex. B - Plaintiff Dhanesh Ranjitkar's deposition transcript at 48:24-49:2, 54:5-8, 81:12-16; Ex. D - Plaintiffs' Objections and Responses to Defendant's First Request for Admissions at pg. 3, no. 1.**

7. The Policy provides the following proof of loss payment condition:

> **6. CONDITIONS**
>
> **b. How Losses are Settled**
>
> We will adjust any loss with **you**, and pay **you** unless another payee is named in the [P]olicy.
>
> **We** will pay within 60 days after **we** receive **your** proof of loss and all other requested documents and the amount of loss is finally determined by an agreement between **you** and **us**, a court judgment or an appraisal award.

Ex. A –Owners Insurance Policy at OWNERSRANJITKAR 000026-27.

8. Plaintiffs received Owners' Request for Proof of Loss and Records, dated May 19, 2023 ("Proof of Loss"). **Ex. E – Proof of Loss at OWNERSRANJITKAR 000057-69; Ex. D - Plaintiffs' Objections and Responses to Defendant's First Request for Admissions at pg. 3, no. 2**.

9. Plaintiffs did not provider Owners the sworn and executed Proof of Loss. **Ex. B – Plaintiff Dhanesh Ranjitkar's deposition transcript at 79:22-80:14; Ex. D - Plaintiffs' Objections and Responses to Defendant's First Request for Admissions at pg. 3, no. 3**.

10. The Policy also provides:

> **6. CONDITIONS**
>
> **g. Action Against Us**
> **We** may not be sued unless there is full compliance with all the terms of this policy.

Ex. A – Owners Insurance Policy at OWNERSRANJITKAR 000027.

11. The Policy provides the following exclusions:

> **3. EXCLUSIONS**
>
> **b. Coverage A - Dwelling and Coverage B - Other Structures**
> Except as to ensuing loss not otherwise excluded, **we** do not cover loss resulting directly or indirectly from:
>
> **(3)** Faulty, inadequate or defective:
>
> **(a)** construction, reconstruction, repair, remodeling or renovation;
> **(b)** materials used in construction, reconstruction, repair, remodeling or renovation;
> **(e)** maintenance of a part or all of the **residence premises** or any other property.
>
> **(4)** **(a)** wear and tear, marring, scratching or deterioration;
> **(b)** inherent vice, latent defect or mechanical breakdown[.]

Ex. A – Owners Insurance Policy at OWNERSRANJITKAR 000022.

12. Plaintiffs reported the Property loss to Owners on May 18, 2023. **Ex. F - Owners' First Notice of Loss at OWNERSRANJITKAR 000051-52**.

13. On May 19, 2023, Owners emailed Plaintiffs to acknowledge receipt of Plaintiffs' reported Property claim and to advise of a Property inspection by independent adjuster, Catastrophe Specialist Inc. ("CSI"). **Ex. G – Owners' email to Plaintiffs, dated May 19, 2023 at OWNERSRANJITKAR 000072-73.**

14. On May 27, 2023, Catastrophe Specialist, Inc. ("CSI"), inspected the Property. **Ex. H – CSI Closing Report at OWNERSRANJITKAR 000081.**

15. On June 13, 2023, Owners issued Plaintiffs the following actual cash value ("ACV") payments: Coverage A – Dwelling payment totaling $3,994.55 and Coverage B – Other Structures payment totaling $1,021.46. **Ex. B - Plaintiff Dhanesh Ranjitkar's Deposition Transcript at 57:3-14; Ex. I - ACV Payments Issued to Plaintiffs.**

16. On June 15, 2023, Owners issued Plaintiffs a Coverage C – Personal Property ACV payment for $829.05. **Ex. B - Plaintiff Dhanesh Ranjitkar's Deposition Transcript at 58:8-18; Ex. J – Owners' Email to Plaintiffs for ACV Coverage C Payment, dated June 15, 2023.**

17. On October 9, 2023, Owners issued Plaintiffs a Coverage A – Dwelling ACV payment totaling $1,010.56. **Ex. B - Plaintiff Dhanesh Ranjitkar's Deposition Transcript at 57:15-20; Ex. I - ACV Payments Issued to Plaintiffs.**

18. On December 6, 2023, Owners emailed Plaintiffs and their contractor, Colorado Windows and Restoration, acknowledging receipt of Plaintiffs' supplemental estimate and explained the reasoning of Owners' position on staying with the Owners estimate. **Ex. K - Owners' December 6, 2023 Email at RANJITKAR000148.**

19. Plaintiffs' counsel, Daly & Black, sent Owners a letter of representation, dated January 5, 2024 ("Letter of Representation"). **Ex. L - Letter of Representation at RANJITKAR000234-235.**

20. The Letter of Representation did not include new information or documentation for Owners to reconsider its coverage position on Plaintiffs' Claim. **Ex. L - Letter of Representation at RANJITKAR000234-235.**

21. In correspondence dated January 22, 2024, Owners acknowledged receipt of the Letter of Representation, requested clarification regarding the issues of Plaintiffs' claim, and advised that Owners could provide Plaintiffs a certified copy of the Policy. **Ex. M – Owners' Correspondence, dated January 22, 2024 at RANJITKAR000149-151**.

22. On February 15, 2024, Owners emailed Plaintiffs' counsel, Daly & Black, regarding Owners' updated estimate. **Ex. N - Owners Email to Plaintiffs' Counsel, dated February 15, 2024 at RANJITKAR000200-217**.

23. Owners issued Plaintiffs a check for supplemental ACV Coverage A payment, dated June 26, 2024 and totaling $6,132.78. **Ex. O - Supplemental ACV Coverage A Payment for $6,132.78 at OWNERSRANJITKAR 000827-828**.

24. On December 17, 2024, Owners emailed Plaintiffs' counsel to advise that a full roof replacement for the Property was unwarranted and further offered to answer counsel's questions or provide clarification. **Ex. P - Owners' December 17, 2024 Email**.

25. Owners sent Plaintiffs' counsel its additional coverage position correspondence, dated April 16, 2025, which set forth all prior ACV payments issued to Plaintiffs, and again reiterated Owners' coverage position that was stated in its December

17, 2024 email with counsel. **Ex. Q - Coverage Position Letter**, **RANJITKAR000230-233**.

26. Plaintiffs did not disclose any expert or other witness to opine on insurance industry standards. **Ex. R - Plaintiffs' Expert Witness Disclosures**.

LEGAL AUTHORITY

Summary judgment is appropriate when 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." Fed. R. Civ. P. 56(a). "Only disputes over facts that might affect the outcome of the suit under the governing law will properly preclude the entry of summary judgment. Factual disputes that are irrelevant or unnecessary will not be counted." *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 248 (1986). If "the moving party does not bear the ultimate burden of persuasion at trial, it may satisfy its burden at the summary judgment stage by identifying 'a lack of evidence for the nonmovant on an essential element of the nonmovant's claim.'" *Bausman v. Interstate Brands Corp.*, 252 F.3d 1111, 1115 (10th Cir. 2001) (citations omitted).

"Once the moving party meets this burden, the burden shifts to the nonmoving party to demonstrate a genuine issue for trial on a material matter." *Concrete Works of Colo., Inc. v. City & Cnty. of Denver*, 36 F.3d 1513, 1518 (10th Cir. 1994). The nonmoving party may not rest solely on the allegations in the pleadings, but instead must designate "specific facts showing that there is a genuine issue for trial." *Celotex Corp. v. Catrett*, 477 U.S. 317, 324 (1986) (quotations omitted). "To avoid summary judgment, the

nonmovant must establish, at a minimum, an inference of the presence of each element essential to the case." *Bausman*, 252 F.3d at 1115.

LEGAL ARGUMENT

I. Plaintiffs' Breach of Contract Claim, including for RCV benefits, should be dismissed because they cannot meet their burden to establish coverage.

Plaintiffs, as the insureds, have "[t]he initial burden to prove [their] entitlement to recover under the general provisions of the policy." *Rodriguez v. Safeco Ins. Co.*, 821 P.2d 849, 853 (Colo. App. 1991). "The burden then shifts to the insurer to prove the applicability of an exclusion from coverage; if the insurer makes this showing, the burden shifts back to the insured to show an exception to any coverage exclusion." *Rocky Mt. Prestress, LLC v. Liberty Mut. Fire Ins. Co.*, 960 F.3d 1255, 1260 (10th Cir. 2020) (citing *Rodriguez*, 821 P.2d at 853)). Plaintiffs' breach of contract claim, including their claim for RCV benefits, fails because they cannot show that Owners breached its obligation to pay a covered RCV benefit under the Policy.

The Policy makes clear that only actual cash value payments are owed if, as here, the damaged property has not been repaired or replaced. The Policy sets forth certain requirements and conditions for coverage, including reasonable and necessary temporary repairs, completing repair or replacement of damaged covered property within two years after the date of loss, and notifying Owners that repair or replacement was completed. Plaintiffs failed to comply with the Policy requirements to obtain RCV benefits.

Further, the Action Against Us provision of the Policy requires full compliance with the Policy terms before bringing suit. *See Northern Ins. Co. Ekstrom*, 784 P.2d 320 (Colo. 1989) (holding that if the meaning of an insurance policy is expressed in plain, certain,

and readily understandable language, it must be enforced as written). Thus, the Defendant is entitled to summary judgment. *See Pub. Serv. Co. of Colo. v. Wallis Cos.*, 986 P.2d 924, 933 (Colo. 1999) ("[A] court should seek to give effect to all provisions [of an insurance policy] so that none will be rendered meaningless.").

Even if Plaintiffs could establish that coverage otherwise existed, Plaintiffs' claim fails because they cannot establish that the Policy conditions for payment of a loss were satisfied. The Policy is clear that payment for covered benefits is owed within 60 days after the proof of loss and all other requested documents are received, and the amount of the loss is determined by an agreement, a court judgment, or an appraisal award. Plaintiffs cannot establish that these payment conditions were met (in fact, the undisputed facts establish that they were not), and, therefore, their breach of contract claim must be dismissed.

Finally, to the extent coverage otherwise exists, Plaintiffs are limited to actual cash value (ACV) recovery under the plain terms of the Policy. Plaintiffs admitted that they never made repairs (much less repairs within the two-year period from the date of loss), as required by the Policy.

II. Plaintiffs' Common Law Bad Faith Claim should be dismissed because Defendant acted reasonably, and there is no admissible evidence that Defendant violated insurance industry standards.

To establish a first-party bad faith claim, Plaintiffs must prove that Defendant acted unreasonably and with knowledge of or reckless disregard for the fact that no reasonable basis existed for its actions. *Schultz v. GEICO Cas. Co*., 2018 CO 87, ¶ 15; C.R.S. § 10-3-1113(3). A showing of unreasonableness, in and of itself, is insufficient to establish bad

faith. Plaintiffs must also establish that Defendant acted in reckless disregard of their claim. *See Goodson v. Am. Standard Ins. Co*., 89 P.3d 409, 415 (Colo. 2004).

Simply disagreeing over the nature, extent, cause, and value of an insurance claim cannot establish that an insurer acted unreasonably, much less support a claim for bad faith. *See Bucholtz v. Safeco Ins. Co.,* 773 P.2d 590, 593 (Colo. App. 1988). "[W]hen there are no genuine issues of material fact, reasonableness may be decided as a matter of law." *Zolman v. Pinnacol Assur.*, 261 P.3d 490, 497 (Colo. App. 2011); *see also Ayala v. State Farm Mut. Auto. Ins. Co.*, 628 F. Supp. 3d 1075, 1081 (D. Colo. 2022) (reasoning that whether an insurance company acted reasonably may be decided as a matter of law in appropriate circumstances).

Insurers are afforded wide latitude in their ability to investigate claims and to resist false or unfounded efforts to obtain funds. *Olson v. State Farm Mut. Auto. Ins. Co.*, 174 P.3d 849, 856 (Colo. App. 2007). Thus, if an insurer has a reasonable basis for its decision, a common-law bad faith claim must fail as a matter of law. *Id.*; *see also Pham v. State Farm Mut. Auto. Ins. Co.*, 70 P.3d 567, 573-74 (Colo. App. 2003). The reasonableness of the insurer's conduct is determined objectively based on proof of industry standards and must be evaluated based on the information before the insurer at the time of its decision. *See Vansky v. State Farm Auto. Ins. Co.*, No. 20-cv-01062-PAB-NRN, 2022 WL 900160, at *4 (D. Colo. Mar. 28, 2022); *Ayala*, 628 F. Supp. 3d at 1081.

The undisputed facts establish that Defendant timely evaluated the Claim, diligently investigated the Claim with the limited amount of pre-litigation information and documentation Plaintiffs disclosed, and reasonably relied on the findings and conclusions

of the engineer. Moreover, even if Plaintiffs could muster evidence that Defendant acted unreasonably, Plaintiffs cannot provide admissible evidence that Defendant acted with knowledge of or reckless disregard for the fact that no reasonable basis existed for its coverage position.

Plaintiffs also cannot provide evidence of any violation of industry standards. Plaintiffs failed to disclose an expert or other witness to opine on insurance industry standards and whether Defendant complied with the standard of care. *Am. Fam. Mut. Ins. Co. v. Allen*, 102 P.3d 333, 343 (Colo. 2004) ("The reasonableness of an insurer's conduct is measured objectively based on industry standards.") Moreover, the undisputed facts establish that Defendant acted reasonably under the circumstances.

Plaintiffs' litigation expert, Brandon Allen of Allen Consulting Services, makes no reference to insurance industry standards, nor would he be qualified to offer an opinion on such standards. Regardless, his report was not submitted to Defendant prior to Plaintiff filing suit (and therefore is irrelevant in determining whether Defendant's coverage decisions were reasonable at the time they were made). Even disagreements between experts do not necessarily suggest that the investigation or denial of a claim was unreasonable. *See Sandoval*, 952 F.3d at 1237-38*; Avalon Condo. Ass'n Inc.*, No. 1:14-cv-00200, 2015 WL 5655528, at *5 ("Although Plaintiff disagrees with [the expert's] findings, mere disagreement of this sort is insufficient for Plaintiff to sustain its bad faith claim.").

Plaintiffs cannot create a genuine issue of material fact that Defendant acted unreasonably and with knowledge of or reckless disregard for the fact that no reasonable

basis existed for its coverage determination. Plaintiffs' common law bad faith claim should be dismissed.

III. Plaintiff's C.R.S. §§ 10-3-1115 and 10-3-1116 Claim should be dismissed because there is no evidence Defendant unreasonably delayed or denied payment of a covered benefit and violated insurance industry standards.

As discussed above, there is a lack of evidence that Defendant unreasonably delayed or denied payment of a benefit covered under the Policy. The policy requirements to issue RCV benefits were never satisfied. Plaintiffs' C.R.S. §§ 10-3-1115, 10-3-1116 claim should therefore be dismissed.

If an insurer has a reasonable basis for its claim decision, a statutory claim under C.R.S. §§ 10-3-1115 and 10-3-1116 must fail. *See Am. Family Mut. Ins. Co. v. Hansen*, 2016 CO 46, ¶ 32. The reasonableness of an insurer's conduct is determined by objective industry standards. *Schultz*, 2018 CO 87, at ¶ 15. "These standards may be established through expert opinions or state law." *Peden v. State Farm Mut. Auto. Ins. Co.*, 841 F.3d 887, 890 (10th Cir. 2016) (citing *Goodson v. Am. Standard Ins. Co*., 89 P.3d 409, 415 (Colo. 2004); *Allen*, 102 P.3d at 343.

Plaintiffs cannot establish that Defendant failed to pay a covered benefit owed under the Policy, much less that Defendant *unreasonably* delayed or denied payment of a covered benefit. *See El Dueno, LLC v. Mid-Century Ins. Co.*, No. 24-1110, 2025 WL 1540329, at *3 (10th Cir., May 30, 2025). The Policy conditions triggering a requirement to issue a payment for a policy benefit were never satisfied, and Plaintiffs failed to provide Defendant with any engineering report or other evidence to dispute Defendant's coverage determination prior to filing suit. Thus, Plaintiffs cannot meet their burden to provide

admissible evidence that Defendant acted unreasonably in denying her claim. *See Schultz*, 2018 CO 87, at ¶ 19. Without evidence that Defendant acted unreasonably and violated insurance industry standards, Defendant is entitled to summary judgment dismissing Plaintiffs' statutory claim.

Finally, Plaintiffs' common law bad faith and statutory claims fail because the breach of contract claim fails as a matter of law. *See Ayala*, 628. F. Supp. 3d at 1085-1086 (determining that the plaintiff's bad faith claim failed when coverage was properly denied and the bad faith claim flowed from the denial of coverage).

CONCLUSION

Defendant respectfully requests that the Court grant summary judgment and dismiss all claims.

Respectfully submitted this 17th day of April, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of April 2026, a true and correct copy of the foregoing **DEFENDANT'S MOTION FOR SUMMARY JUDGMENT** was electronically filed with the Clerk of the Court for the United States District Court for the District of Colorado using the Federal Court's CM/ECF System, and served via ECF, to all parties having entered an appearance in this action.

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s/ Barbara McCall
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[*Original Signatures on File at the Office of Thompson, Coe, Cousins & Irons, LLP]*