
RESULT DATE: March 22, 2011

11-JV_844

Roy Smally, Vivi Smally v. Nationwide Insurance Co., et al. (095999)

Hon. M. Lynn Duryee

Marin Superior

TOPIC: Insurance

SUB TOPIC: Bad Faith

FURTHER DESCRIPTION: Breach of Contract

VERDICT: \$1,886,178

ATTORNEY:

Plaintiff - Francis X. Doherty (Doherty Georgeson, LLP, San Rafael) for Roy and Vivi Smally.

Cross-Complainant - David H. Commins, Kit L. Knudsen (Commins & Knudsen, PC, San Francisco) for Marin Mortgage;

Defendant - Jason R. Bendel, James E. Fitzgerald (Stroock & Stroock & Lavan, LLP, Los Angeles) for Nationwide Insurance Company.

TECHNICAL:

Plaintiff - Kevin Dawson, insurance claims handling, Oakland.

Cross-Complainant - Peter S. Evans, insurance claims handling, Mill Valley; Donald Way, insurance claims handling/broker, standard of care, San Jose;

Defendant - Gilbert J. Malmgren, insurance claims handling, Sacramento.

FACTS: Fire dwelling policy, 2008 fire, breach and bad faith claims handling.

PLAINTIFFS' CONTENTIONS: Plaintiffs Roy and Vivi Smally contended there was inadequate notice of cancellation, breach of contract and bad faith claims handling. Cross-complainant Marin contended that there was failure to fulfill duties to mortgagee, breach of contract and bad faith claims handling.

DEFENDANT'S CONTENTIONS: Nationwide contended that it did not commit breach or bad faith.

JURY TRIAL: Length, nine days; Deliberation, 1.25 days

SETTLEMENT DISCUSSIONS: Nationwide offered \$200,000.

RESULT: Verdict for Cross-Complainant Marin Mortgage: \$686,178 Compensatory; \$1.2 MM punitives; attorney fees still to be awarded (\$300,000 to \$500,000).

Verdict for plaintiffs Roy and Vivi Smally: \$448,596 compensatory; attorney fees still to be awarded.

OTHER INFORMATION: FILING DATE: Nov. 25, 2009.

\$300,000 to \$500,000 in attorney fees still to be awarded.