Bad Faith Litigation – Corporate Shareholder Dispute

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Mark Shaughnessy and Aaron R. White successfully defended a coverage dispute arising out of a corporate director and shareholder proxy lawsuit in Maine.

The lawsuit arose out of an action filed in the United States District Court in Maine where two corporate directors of a start-up company alleged that they were wrongfully terminated by the company. As a result, the two individuals brought suit against the company and its board of directors alleging wrongful termination. In turn, the company counterclaimed, alleging that the two directors had breached their fiduciary duty to the shareholders of the corporation.

The two individuals forwarded the counterclaim to their insurer, seeking defense and indemnification for the counterclaim action. While the insurer was evaluating whether it owed a duty to defend or indemnify for the counterclaim, the individuals settled at mediation prior to receiving a decision from the insurer. The two individuals then filed suit in Middlesex Superior Court alleging that the insurer had failed to respond timely to their request for defense, causing them to sustain millions of dollars in losses while they were unable to defend against the counterclaims. The individuals alleged that, due to the insurer's delay in responding, they lost valuable rights as directors and shareholders of the corporation, which their economic expert testified had a value ranging from $600,000.00 to $19,000,000.00.

Additionally, the individuals alleged that the insurer violated the Massachusetts Consumer Protection Act for failing to respond timely to their request for defense and indemnification. The individuals sought double and treble damages, as well as the recovery of legal fees which amounted to more than $500,000.00 at the time of trial.

At trial, the defense primarily focused on the issue that the individuals had not sustained losses in the amounts which they alleged. The defense conceded that certain defense costs were owed to the individuals, who had retained counsel to represent them on the counterclaims.

At the time of trial, the individuals' last demand was $2,500,000.00. The jury returned a verdict in the amount of only $38,000.00 for legal fees related to the counterclaims. This amount was equal to the settlement offer made by the insurer over five years ago, prior to the filing of suit. The jury awarded no damages to the individuals as directors of the corporation and found that the insurer had not violated the Consumer Protection Act.

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