

Won a defense verdict for a national carrier in a bad faith jury trial in which the plaintiff claimed the insurer must pay for a special run of bricks in order to fully repair the plaintiff's home. A 12-member jury unanimously rejected the plaintiff's claims, agreeing that our client had acted in good faith. We also won the Tenth Circuit appeal.

2018

WTO attorneys successfully defended a national insurer in a federal jury trial in Colorado. The plaintiff claimed WTO's client acted unreasonably when it paid to repair damage to the brick façade on the plaintiff's home following a 2012 hail and wind storm. Because the exact bricks used in the original construction were no longer available, the plaintiff asserted that in order to make a full repair, the insurer must cover the cost of a special run of 50,000 bricks to match the existing bricks on the plaintiff's house.

After filing suit, the plaintiff demanded an appraisal, which came back *lower* than the policy benefits WTO's client had paid for the damage to the brick façade before the lawsuit was filed. Undeterred, the plaintiff asserted an accounting claim and sought contractual and bad-faith damages for the

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insurer's adjustment of the claim based on a number of alleged errors and inconsistencies in the adjustment process.

After WTO's client presented evidence it paid everything that was owed under the policy, the plaintiff withdrew his breach of contract and accounting claims and proceeded solely on a claim for statutory bad faith, which would have entitled the plaintiff to recover his attorneys' fees. The insurance company also sought and obtained exclusion of the plaintiff's expert on insurance claims handling practices and bad faith before trial.

Because of the length of the litigation, the plaintiff would have sought recovery of approximately half a million dollars in attorneys' fees via a post-trial motion if he succeeded in his bad-faith claim. Following a four-day trial, the jury returned a verdict in favor of WTO's client in less than 45 minutes. Given the protracted nature of this case, which had been underway for over four years due to the plaintiff's multiple procedural machinations, the client specifically thanked WTO for "the creative thought and effort that went into preparing and trying this case."



Anthony C. Barbe
Partner