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COLORADO FIRE CASE

When Jim and Joy Gail Piburn's Colorado property was engulfed in flames in October 2015, they expected their insurer to promptly respond to their claim. Instead, they were disappointed to see their claim delayed month after month with little to no response regarding any status updates. Delay tactics are a familiar plight facing policyholders who file a claim with their insurer. Unfortunately, insurance companies can use these delay tactics to put off paying coverage benefits.

The Piburns came to Merlin Law Group frustrated with their insurance company's inaction. Their dwelling extension coverage that they were relying on for rebuilding their home lapsed as a result of the delay. Merlin Law Group attorneys Larry E. Bache, Jr. and Jonathan E. Bukowski recognized the insurer misconduct and sued their insurance company under the applicable Colorado statutes.

Through the hard work of Bache and Bukowski, the insurance company ended up paying over \$1M in bad faith damages.

POLICY INFORMATION

The Piburns purchased a residential homeowners insurance policy with effective dates of August 2015 through August 2016. This was an all-risk homeowners insurance policy providing coverage to their home for any and all damages not specifically excluded or limited by the terms of the policy.

The policy provided the following coverages:

Dwelling:	\$370,600.00
Dwelling Extension:	\$165,600.00
Personal Property:	\$277,950.00
Loss of Use:	Actual Loss Sustained

A key factor with the Piburns' policy is that the insurer is obligated to adjust and pay losses in a fair and timely fashion. Fairness and timing are the most significant issues in this case. The insurer's delay exemplifies how insurance companies will drag their feet in doing the right thing for loyal policyholders who pay their premiums on time.



THE PIBURNS' HOME

The Piburns' home was a two-story residential property with 2,814 square feet of livable space. They broke ground in May 1992 and worked tirelessly over the next twenty-three years to craft the Victorian-style home that was valued at \$450,000. It was meant as their retirement home and they were just about to move into it right before the loss occurred.

Over time, the Piburns filled their beautiful home with priceless collectables and various antiques they had accumulated throughout their lifetime. These items included an oriental rug estimated at over \$30,000, a famed sculpture by Federic Remington, Stickley Furniture, a quilt sewn by a relative of Harry Truman and several hundred other antique pieces scattered throughout the home. Joy Piburn had also amassed a large collection of American Revolutionary War collectibles and displayed them in a designated area of the house. In all, the estimated value of the contents within the Piburns' home exceeded \$500,000.

THE LOSS

The fire occurred in early October 2015, days before they were expected to move into their home and was caused by the spontaneous combustion of an oily rag. It was devastating for the Piburns and deemed a total loss per their insurance policy. The Piburns were quick to file a claim with their insurer to launch what they assumed would be a straightforward process. Jim Piburn wrote a letter to his insurer asking them to total the home and personal property. The representative assigned to the case failed to respond to that letter. It was later determined she wrote in her preliminary notes that the property was a custom home with no detail left untouched. She also noted the presence of many valuable collectibles and antiques, as she was familiar with the Piburns and their property prior to this fire claim.

PICKING UP THE PIECES

The insurer insisted that the Piburns document their personal property losses on an Excel spreadsheet to be sent over. The Piburns, who had limited understanding of computer systems in general, insisted the insurer come out to inspect the property themselves. Despite their urging the insurance company to come out and assess the loss in person, their insurer left the Piburns to navigate the complicated process of cataloging their dwelling and personal property losses.

Over the next few months, the Piburns sifted through soot and debris to try and identify all their destroyed property. Their days consisted of attempting to identify specific items, scouring the Internet to try and determine any sort of quantifiable value for their items and compiling their findings into a list to present their insurer.

Throughout the closing months of 2015, they continued to reach out to their insurer requesting them to come out to inspect their property themselves and tender the limits of their dwelling coverage. It wasn't until January 2016, over three months since the loss, that the insurer completed an estimate for damages for the dwelling. However, the insurer delayed payment

on the dwelling coverage for an additional two months with no reasonable explanation, bringing the total time without any sort of reimbursement on policy benefits to six months after the loss.

DELAY, DELAY, DELAY

At this point, the Piburns were concerned with receiving their entitled benefits for personal property content losses. The Piburns composed three binders filled with photographs of the destroyed personal property items and corroborating photos of comparable items found online after eight months of digging through the charred remains of their property. They also put these items and their estimated value into an Excel spreadsheet per their insurer's demand, despite their lack of computer literacy skills. The insurer received these binders in May 2016 and advised the Piburns to continue sorting through the remains of their property until the insurer determined that their personal property contents limits had been satisfied.



In July 2016, over two months since they submitted the binders and spreadsheet, the Piburns reached out to their insurance claim adjuster for an update on whether their personal property contents list had been processed. They were informed that the contents had not yet been adjusted and were being forwarded over to the correct department.

The Piburns continued their process of identifying personal property contents, determining their value as best they could and compiling their findings. By October 2016, they had created four more binders with documented items and their estimated value. Upon submitting these new binders to the insurer, they were informed that the binders were unnecessary because they had already reached their personal property contents limits with the first three binders. This was never communicated to the Piburns. Their painstaking process of sifting through the ashes of their dream home could have been avoided with timely adjustment and proper communication.

In January 2017, now a total of eight months since they submitted their original contents documentation, the Piburns formally requested an update regarding payment on their personal property content benefits. Their insurance claim representative responded by telling them she was “really behind” and had yet to adjust their content submissions. The Piburns followed up in February 2017 and didn't get a response. Payment for the policy limits of the personal property contents coverage was finally issued in March 2017, almost eleven months after the Piburns submitted their initial contents inventory.

FIGHTING BACK

Bache and Bukowski worked quickly to identify how the Piburns' insurer failed to uphold their duties and obligations per the policy. They specifically cited multiple statutes of the Colorado Administrative Code and Colorado Revised Statutes in laying out the Piburns' case.

Colorado Administrative Code

Section 702-5:5-1-14(4)(A)(1) of the Colorado Administrative Code requires that insurers make a decision on claims and/or pay benefits due under the policy within sixty days after receipt of a valid and complete claim.

The facts of the case determined that the insurance company had all they needed to complete the dwelling portion of the Piburns' claim in October 2015. Despite the constant pleas from the Piburns to tender the limits of their dwelling coverage over the months of October, November and December, it wasn't until March 2016 that the insurer finally tendered the dwelling limits—nearly six months after the claim was submitted.

Regarding the personal property contents claim, the evidence points to the insurer receiving all the necessary information in May 2016. The claim adjuster assigned to the case even acknowledged the evidentiary submission in October 2016. Despite this, it took nearly eleven months for payment on the insureds' personal property coverage benefits to be dispersed.

Unfair Claim Settlement Practices

Colorado Revised Statute § 10-3-1104(1)(H) outlines the following unfair claim settlement practices which are relevant to the insurer's unreasonable adjustment of the Piburns' claim:

- (II) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies.
- (III) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies.
- (VI) Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims in which liability has become reasonably clear.

The insurer failed to enact promptly investigation and settlement of both the Piburns' dwelling and personal property contents claims. Even when the insurer claimed that the evidentiary standards had been met, as with the personal property contents list, they failed to promptly effectuate payment. The insurer also failed to promptly and adequately respond to inquiries from the claimants regarding status updates.

Unreasonable Delay of Payment of Covered Benefits

The Colorado legislature recognized the need for protecting Colorado's policyholders against an insurer's unreasonable delay and denial of owed benefits. Their passing of Colorado Revised Statutes § 10-3-1115 and § 10-3-1116 ensured local policyholders would be afforded such protections.

§ 10-3-1115 deals with improper denial of claims and states that an insurer shall not unreasonably delay or deny payment of a claim for benefits owed to or on behalf of any first-party claimant. The statute goes on to define an insurer's delay or denial as "unreasonable" if the insurer did so without a reasonable basis for the action.

§ 10-3-1116 addresses the remedies for unreasonable delay or denial of benefits. This statute dictates that any first-party claimant may bring an action in a district court to recover reasonable attorney fees, court costs and two times the covered benefit.

CONCLUSION

The insurer's actions in this case demonstrate an unmistakable delay of payment of covered benefits in the amount of \$708,437.22 without any reasonable basis for doing so. The Piburns purchased insurance coverage with the understanding that they would promptly and reasonably respond to claims they filed for covered perils. Instead, they were met with unreasonable delays in both inquiry response time and payment of coverage benefits.

It was later determined that the appointed claims adjuster spent less than an hour working on the claim according to the claim log. This gross inattention directly contributed to the delay in the Piburns' case and is further evidence of the insurer's mismanagement of the claim.

Bache and Bukowski were able to help the Piburns navigate this mess and finally receive the full extent of their coverage benefits in addition to supplementary compensation afforded to them by state law. As a result, the Piburns' insurance company paid over \$1M to our clients for improper claims handling.

This case exemplifies how insurer delay and bad faith actions affect loyal policyholders. It also exemplifies how Merlin Law Group can work to obtain justice for policyholders in order to receive their entitled benefits under their insurance policies. Attorneys Larry E. Bache, Jr. and Jonathan E. Bukowski are testaments to the tenacity, care and steadfast resolve we apply to all our clients' claims.

If you need help with your insurance company unreasonably delaying or denying your claim, please don't hesitate to contact Merlin Law Group today.