

Bad Faith: A Smorgasbord of Interesting Disability Cases

December 19, 2011 by [Martin Rosen](#)

[Roth v. Madison National Life Ins. Co.](#), 702 F.Supp.2d 1174 (C.D. Cal 2010)

Facts and holding: Paul Roth (“Roth”) was insured under two life insurance policies issued by Madison National Life Insurance Company (“Madison”). Both policies contained a “Critical Illness Benefit Rider” which provided that 10% of the policies’ death benefits would be advanced in the event the insured underwent an angioplasty procedure and certain conditions were met. One of those conditions was that the insured furnish Madison with evidence of significant electrocardiographic (“EKG”) changes.

In July 2004, Roth received an angioplasty and submitted a claim to Madison for benefits. In evaluating Roth’s claim, Madison obtained Roth’s medical records relating to the angioplasty procedure. Those records revealed that prior to the angioplasty, Roth underwent an EKG, the results of which were normal. As a result, Madison denied Roth’s claim. Thereafter, Roth sued Madison for breach of contract and bad faith.

Madison brought a motion for partial summary judgment on Roth’s bad faith claim, arguing that it could not be liable for bad faith because, in denying Roth’s claim, it had simply complied with the express terms of the riders. Roth conceded that he did not provide Madison with evidence of significant EKG changes, but argued that the terms of the riders were outdated and should be disregarded because his physician concluded that the angioplasty was medically necessary.

The Court ruled that a claim for bad faith fails where the alleged bad faith conduct is specifically permitted by the policy. Put another way, the implied covenant of good faith and fair dealing cannot contradict the express terms of a contract. Since Madison had specifically relied on the terms of the contract as a precondition to paying benefits (in requiring Roth to submit evidence of EKG changes), that insistence could not be considered bad faith conduct.

Lessons Learned: The principle the *Roth* Court articulated is an offshoot of the more well-known and long-standing principle in California that although there is an implied covenant of good faith and fair dealing in every contract, it will only be recognized to further the contract’s purpose. It naturally follows that the implied covenant cannot serve as a basis for prohibiting a party to do that which is expressly permitted by that contract (the policy).

(The author was counsel for Madison in the above dispute.)