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Ninth Circuit Finds Possible Bad Faith in Denial of Benefits to Insured Whose Disability Began During Period of Unemployment

By: Robert R. Pohls

In *Amadeo v. Principal Mutual Life Insurance Company*, 02 C.D.O.S. 4388 (9th Cir., May 22, 2002), the Ninth Circuit considered the benefit claim of an insured who claimed to be disabled by depression. By her own admission, the insured was unemployed when her disability began. The insurer therefore denied her benefit claim.

In reaching that decision, the insurer reasoned that the phrase “regular occupation” referred to “the activities that [the insured was] performing just prior to the disability.” Because the insured was unemployed when her disability allegedly began, the insurer considered whether the insured’s depression interfered with her ability to engage in simple activities of daily living. After finding that her depression did not impair her ability to engage in those activities, the insurer denied her claim.

The insured thereafter filed a lawsuit for breach of contract and bad faith. The district court later disposed of the bad faith claim because the insurer’s claims decision involved a genuine issue. However, the Ninth Circuit reversed, holding that a jury could find the insurer’s interpretation of the phrase “regular occupation” to have been “arbitrary and unreasonable.”

The Ninth Circuit also reasoned that, even if the insurer’s interpretation of the policy was reasonable, a jury could find that the insurer failed to conduct an adequate investigation into whether the insured was entitled to benefits.

About the Author

Rob Pohls has been shaping California insurance law for more than 20 years. He is the principal of *Pohls & Associates*, a firm in the San Francisco Bay Area that he established in 1999 to represent life, health, disability and long term care insurance companies in bad faith, ERISA and other forms of complex litigation. As a member of the Association of Life Insurance Counsel and a former Chair of the American Bar Association’s Health & Disability Insurance Law Committee, he is a prolific author and frequent speaker on issues of interest to the insurance and financial services industries. More information about Rob, his firm and his practice is available online at: www.califehealth.com. Contact him by e-mail at: rpohls@califehealth.com.