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Dickie McCamey Wins Eight-Figure Bad Faith Case in Federal Court

Dickie, McCamey & Chilcote, P.C. attorneys **Charles E. Haddick, Jr.** and **Bryon R. Kaster** have successfully defended a large, national insurer from exposure to an eight-figure bad faith claim in the U.S. District Court for the Middle District of Pennsylvania. Haddick and Kaster are members of Dickie McCamey's Insurance Law and Litigation Group in the firm's Harrisburg, Pennsylvania, office. They obtained a dismissal of both breach of contract and bad faith claims filed against Nationwide Insurance arising out of its decision to defend and indemnify a commercial insured in an underlying wrongful death case following the insurer's investigation of the claim.

In the case *Bodnar v. Nationwide* (M.D. Pa., 3:12-CV-01337), the insured's assignee charged Nationwide with bad faith even though Nationwide ultimately defended and fully indemnified the insured in an underlying wrongful death action brought by a construction worker's estate after he was killed in a trench collapse. Nationwide settled the underlying wrongful death case, obtaining a release for its insured.

Haddick and Kaster moved for summary judgment in the case on Nationwide's behalf, arguing that the Plaintiff failed to identify any triable issues of material fact which would suggest bad faith on the part of Nationwide during its investigation of the claim. In granting the motion, the Honorable Robert D. Mariani conducted an extensive review of the claims documents in the record, finding a large amount of conflicting evidence as to whether the decedent was an employee or an independent contractor of the insured. Had the decedent been an employee of the insured, Nationwide would have owed neither defense nor indemnity, as the liability policy in question contained an "employer's liability exclusion" precluding any coverage for any claims brought by any employee of the insured. Judge Mariani found, based on the conflicting evidence, that Nationwide's decision to initially file a declaratory judgment action and then later to provide defense and indemnity were reasonable ones.

"[The Court] is willing to assume," Mariani held, "that the claims handlers made judgment calls with which a third-party observer could defensibly disagree. But it cannot agree that Nationwide's documented actions were unreasonable, given the facts it knew at the time, sufficient to sustain a bad faith action or an action for breach of contract."

"Despite Plaintiffs' repeated invocations of the Golden Rule ... the record does not suggest that Nationwide gave [the insured] any other treatment than that which he was owed ... Plaintiffs may not like how the claim was handled, but it cannot be said that Nationwide breached any duty under these facts," Mariani wrote.

Haddick and Kaster have nearly 50 years of combined experience representing insurers in insurance coverage matters, insurance litigation, and bad faith litigation. Haddick has also successfully tried civil insurance fraud and arson claims in coverage litigation as well.

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About Dickie, McCamey & Chilcote, P.C.

Dickie, McCamey & Chilcote, P.C. is a nationally-recognized law firm providing comprehensive legal expertise in a multitude of practice areas. Headquartered in Pittsburgh, Pennsylvania, and founded more than 100 years ago, the firm serves industry-leading clients across the country from offices throughout the mid-Atlantic region in Pennsylvania, Delaware, New Jersey, North Carolina, Ohio, South Carolina, and West Virginia. For more

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