SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Rene C. Davidson Courthouse

Youyi L[redacted] et al Plaintiff/Petitioner(s) vs. Truck Insurance Exchange et al Defendant/Respondent (s)	No. 24CV063297 Date: 07/02/2025 Time: 4:41 PM Dept: 17 Judge: Sarah Sandford-Smith ORDER re: Ruling on Submitted Matter filed by Y[redacted] L[redacted] (Minor); Y[redacted] S[redacted] (Guardian Ad Litem); P[redacted] A[redacted] (Plaintiff) on 06/12/2025

The Court, having taken the matter under submission on 07/02/2025, now rules as follows: The Motion of Defendant Truck Insurance Exchange ("Defendant") for Summary Adjudication is DENIED.

REQUEST FOR JUDICIAL NOTICE

Defendant's Request for Judicial Notice is granted as to Exhibits D through G, which consist of California court records. (Evid. Code, § 452, subd. (d).) However, the Court does not take judicial notice of the truth of any of the facts asserted in the matters noticed. (See Fogel v. Farmers Group, Inc. (2008) 160 Cal.App.4th 1403, 1413 n. 7; Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875, 882.)

Plaintiff's Request for Judicial Notice is granted as to Exhibit A, which consists of California court records. (Evid. Code, § 452, subd. (d).) However, the Court does not take judicial notice of the truth of any of the facts asserted in the matters noticed. (See Fogel v. Farmers Group, Inc. (2008) 160 Cal.App.4th 1403, 1413 n. 7; Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort (2001) 91 Cal.App.4th 875, 882.)

BACKGROUND

Defendant learned of the August 13, 2021 incident on September 29, 2021 and denied A[redacted]'s tender on October 18, 2021, on the basis that A[redacted] was not an "insured" under the policy. (FAC ¶ 18.) Defendant Truck reiterated its denial of coverage in letters dated July 25, 2022, August 15, 2022, and December 1, 2022. (FAC ¶ 20.)

LEGAL STANDARD

"A motion for summary adjudication . . . shall proceed in all procedural respects as a motion for summary judgment." (Code Civ. Proc. § 437c, subd. (f)(2).) In moving for summary judgment, a defendant has met his burden of showing that a cause of action has no merit if he has shown that one or more elements of the cause of action cannot be established, or that there is a complete defense to that cause of action. (Aguilar v. Atlantic Richfield Co. (2001) 25 Cal.4th 826, 849; Code Civ. Proc., § 437c, subd. (p)(2).) Once the defendant has met that burden, the burden shifts to the plaintiff to show that a triable issue of one or more material facts exists as to that cause of action or a defense thereto. (Aguilar, supra, 25 Cal.4th at p. 849; Code Civ. Proc., § 437c, subd. (p)(2).)

The party moving for summary judgment bears the burden of persuasion that there is no triable issue of material fact and that he is entitled to judgment as a matter of law. (Aguilar, supra, 25 Cal.4th at p. 850; Evid. Code, § 500.) A triable issue of material fact exists if the evidence would allow a reasonable trier of fact to find the underlying fact in favor of the nonmoving party. (Aguilar, supra, 25 Cal.4th at p. 850.) Papers are to be construed strictly against the moving party and liberally in favor of the opposing party; any doubts regarding the propriety of summary judgment are to be resolved in favor of the opposing party. (Kulesa v. Castleberry (1996) 47 Cal.App.4th 103, 112.)

DISCUSSION

In the second cause of action for breach of implied covenant of good faith and fair dealing, Plaintiffs Y[redacted] L[redacted]; Y[redacted] S[redacted]; and P[redacted] A[redacted] ("Plaintiffs") allege, among other things, that Defendants "[unreasonably and wrongfully refus[ed] to defend or indemnify A[redacted] with . . . . a narrow investigation that was focused on achieving a denial of benefits." (FAC ¶ 40.)

To determine whether an insurer has breached the implied covenant of good faith and fair dealing, courts look to whether the insurer unreasonably and in bad faith withheld payment of an insured's claim. (Love v. Fire Ins. Exchange (1990) 221 Cal.App.3d 1136, 1151.) Therefore, the judgment debtor must prove (1) that the insurer withheld benefits due under the policy, and (2) that the reason for withholding benefits was unreasonable or without proper cause. (Ibid.) Here, Plaintiffs base this cause of action for breach of the implied covenant on Defendant's alleged breach of its duties to defend and indemnify.

The issue here is different from the discussion above because the duty to defend is broader than the duty to indemnify. (Regan Roofing Co. v. Superior Court (1994) 24 Cal.App.4th 425, 435.) The duty to defend requires insurers to defend their insureds in all claims that create merely the potential for indemnity—i.e., claims that potentially seek damages within the coverage of the policy. (Quan v. Truck Ins. Exchange (1998) 67 Cal.App.4th 583, 590-591.) The issue, therefore, is whether Plaintiffs claim against Romano created the potential for indemnity. If so, then Defendants breached their duty to Romano by refusing to offer a defense. If not, then Plaintiff

cannot maintain his cause of action for breach of the implied covenant.

The California Supreme Court has explained that "if there is no potential for coverage and, hence, no duty to defend under the terms of the policy, there can be no action for breach of the implied covenant of good faith and fair dealing because the covenant is based on the contractual relationship between the insured and the insurer." (Waller v. Truck Ins. Exchange, Inc. (1995) 11 Cal.4th 1, 36.) "[T]he determination whether the insurer owes a duty to defend usually is made in the first instance by comparing the allegations of the complaint with the terms of the policy." (Id. at p. 19.)

Defendant argues that the cause of action for breach of the implied covenant has no merit as a matter of law because Defendant had no obligations to A[redacted]a under the relevant insurance policies. It presents evidence that it processed A[redacted]'s claim pursuant to the terms of the policy based on the information gathered during its investigation. (UMFs Nos. 26-30, 33.) Defendant further presents evidence that A[redacted] did not, prior to August 9, 2022, allege that the incident arose from A[redacted]'s mother having to sweep outside her door. However, even after learning of said allegation, this did not mean that the dog bite arose from a potential insured's ownership, maintenance, or use of premise and therefore did not change Defendant's determination that A[redacted] did not qualify as an insured. (UMFs 36, 44.)

Plaintiffs counter that Defendant was told that the incident occurred in the common area on the sidewalk outside A[redacted]'s home and that A[redacted]'s mother was cleaning at the time. Further, according to the expert opinion of David Frangiamore, Defendant's assessment was deficient. (Frangiamore Decl., ¶ 5.) Frangiamore opines that Defendant did not conduct a complete investigation, even after being informed that Ag[redacted]'s mother had been cleaning and maintaining the common area outside their unit for years due to the HOA's failure to do so itself. Although there is no evidence to support the claim that A[redacted]'s mother had a history of maintaining the unit, or more importantly, that this information was conveyed to Defendant, the claim file reflects that after A[redacted] explained why her mother was outside the home cleaning, Defendant nevertheless considered "the undertaking to sweep . . . a different issue than the need to control [A[redacted]'s] dog." (UMF 36.)

Also, as Defendant itself alleges in its Separate Statement, it appears that it was standard practice for Field Claims Manager Mark Shoquist to conduct research on case law relating to coverage opinions for disputed claims. (UMF 32.) However, Defendant did not present any evidence that Shoquist did so in this case, whereas Plaintiffs offer evidence that Paul Olson, who was first assigned the claim, did not do any such research when he had the option to do so. (AMF 58.) This is sufficient to give rise to the inference that Defendant was not engaging in reasonable conduct.

Because reasonable minds could differ as to whether Defendant breached the covenant of good faith and fair dealing in determining whether there was no minimal causal connection or incidental relationship between the incident and A[redacted]'s mother's sweeping, Defendant's Motion is DENIED.

OBJECTIONS TO EVIDENCE

Defendant's objections to the Declaration of David Frangiamore are overruled.

Clerk is directed to serve copies of this order, with proof of service, to counsel and to self-represented parties of record.

Dated : 07/02/2025

Sarah Sandford-Smith / Judge

SUPERIOR COURT OF CALIFORNIA COUNTY OF ALAMEDA	Reserved for Clerk's File Stamp FILED Superior Court of California County of Alameda 07/03/2025 Chad Finke, Executive Officer / Clerk of the Court By: _____ Deputy P. Bir
COURTHOUSE ADDRESS: Rene C. Davidson Courthouse 1225 Fallon Street, Oakland, CA 94612	
PLAINTIFF/PETITIONER: Youyi Liang et al	
DEFENDANT/RESPONDENT: Truck Insurance Exchange et al	
CERTIFICATE OF ELECTRONIC SERVICE CODE OF CIVIL PROCEDURE 1010.6	CASE NUMBER: 24CV063297

I, the below named Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served one copy of the Order re: Ruling on Submitted Matter filed by Youyi Liang (Minor); Yapi... entered herein upon each party or counsel of record in the above entitled action, by electronically serving the document(s) from my place of business, in accordance with standard court practices.

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Chad Finke, Executive Officer / Clerk of the Court

Dated: 07/03/2025

By:

P. Bir, Deputy Clerk

CERTIFICATE OF ELECTRONIC SERVICE
CODE OF CIVIL PROCEDURE 1010.6