

LA Supreme Court Clarifies Contract Controls Prescriptive Period for First-Party Bad Faith Claims

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USA | January 11 2024

The Louisiana Supreme Court **recently ruled** that an insurance policy’s two-year limitation on the institution of suits by a policyholder creates a two-year prescriptive period for a policyholder’s bad faith claim against the insurer, even though the claim otherwise would have a 10-year prescriptive period.

In 2023, Plaintiff sued her insurer, Louisiana Citizens Property Insurance Corporation, for bad faith, alleging that Citizens failed to timely tender payments for first-party losses she sustained in 2020. Citizens filed an exception of prescription, arguing that the lawsuit was barred by a provision in the insurance policy stating that “[n]o action can be brought unless the policy provisions have been complied with and the action is started within two years after the date of loss.” Plaintiff, relying on *Smith v. Citadel Ins. Co.*, argued her suit was timely because the alleged bad faith constituted breach of a contractual obligation and thus is subject to a 10-year prescriptive period. The trial court agreed with Plaintiff and denied Citizens’ peremptory exception. The court of appeal denied Citizens’ application for writs. Citizens then filed an application for supervisory writ to the Louisiana Supreme Court.

The Louisiana Supreme Court reversed the trial court’s denial of the peremptory exception and dismissed Plaintiff’s lawsuit, with prejudice. In doing so, the Court distinguished the *Smith* case relied on by Plaintiff because *Smith* “did not involve an insurance policy which contained a contractual limitation on institution of suits by the insured.” The Court cited its own **precedent**, holding that “in the absence of a statutory prohibition, a clause in an insurance policy fixing a reasonable time to institute suit is valid.” The Court noted that a two-year prescriptive period is expressly allowed by La. R.S. 22:868(B) (which prohibits “any condition, stipulation, or agreement limiting right of action against the insurer to a period of less than twenty-four months next after the inception of the loss when the claim is a first-party claim”) Accordingly, the Louisiana Supreme Court enforced the insurance policy’s two-year limitation to file and held that Plaintiff’s claim had prescribed.

The *Wilson* ruling reinforces the longstanding rule that the insurance contract is the law between the parties. Parties to an insurance policy are free to contract for a different prescriptive period than that set forth by statute and, absent a statutory prohibition, the prescriptive period agreed on by the parties will be enforced. This decision is significant for insurers and policyholders alike, as it clarifies the applicable prescriptive period for first-party bad faith claims and enforces the contractual limitation on suits by the insured.