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Time-Limited Demand in Death Must Include Both Wrongful Death and Estate Claims and Be Authorized by All Beneficiaries

In *Shin, et al. v. Infinity Insurance Co.*, the Northern District of Georgia granted summary judgment in favor of Infinity Auto Insurance Company (Infinity) on claims in excess of $3.5 million for bad faith failure to settle and breach of contract. The court focused on the bad faith claim and an insurer's duty to settle claims against its insured.

The case arose from complicated underlying facts, where Infinity's additional insured caused a three-car, drunk-driving accident, which resulted in two deaths and serious injuries to several passengers. The two insureds were exposed to 16 potential claims under a policy with a bodily injury liability limit of $100,000 per person, $300,000 per accident. Within days of the accident, Infinity received three time-limited demands. The third demand was made on behalf of the sister of a deceased passenger, claiming to be the "administratrix" of her brother's estate. The deceased's wrongful death beneficiaries — his parents — were not mentioned in the letter. This third demand became the focal point of the bad faith lawsuit, which was filed after the deceased's family obtained a $3 million consent judgment.

The district court found Infinity had no duty to settle the family's claims because the demand was not a valid offer to settle within the policy's limits. This ruling rested on three important points of law. First, the meaning of a demand is a matter of law determined using rules of contract construction. A judge, and not a jury, decides whether a demand is valid. To make that decision, the judge looks at the plain language of the demand, and evidence outside the four corners of the letter cannot be used to add terms to the demand. Here, the demand letter did not include the wrongful death beneficiaries, and the court refused to read in reference to a wrongful death claim or the deceased's parents after the fact.

Second, a demand is not a valid offer if the person making it has no authority to settle the claims. The third demand was sent on behalf of the deceased's sister, who had not yet petitioned to represent her brother's estate. Because the sister had not been given authority to represent the estate when the demand was made, the offer to settle with the "administratrix" was not valid. Third, a demand cannot exceed the policy limits. The court concluded the demand on behalf of only the estate exceeded the policy limits because it did not include both an estate claim and a wrongful death claim. This is a critical point, as demand letters often exclude an estate claim in order to avoid the resolution of medical liens.

Infinity's claim handling was critical to its successful management of all claims arising out of this accident. In light of competing time-sensitive demands, the policy's limited funds and several unknowns about the accident, Infinity quickly filed an interpleader, asking a court to decide how the policy limits should be divided among the claimants. By promptly interpleading the limits, informing its insureds of the demands and interpleader, notifying the insureds of their right to retain additional counsel and providing a defense to its insureds throughout the civil proceedings, Infinity diffused a no-win situation. Fourteen of the potential claims were resolved by the interpleader or shortly thereafter, leaving only the estate and wrongful death claims at issue in the bad faith case. While an interpleader is not a shield for insurers in scenarios with competing claims, it is certainly a tool to consider and use where appropriate.

Swift Currie attorneys Myrece Johnson and Lauren Woodrick represented Infinity Insurance Company in this case. If you wish to further discuss this case or have any questions, please contact the attorneys at:

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