

NOT FOR PUBLICATION

FILED

UNITED STATES COURT OF APPEALS

MAR 29 2018

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

LORRAINE BATES; CHARLES  
EHRMAN BATES; EILEEN BURKE; JACI  
EVANS, as Successor Personal  
Representative for the Estate of Thomas  
Marier; and DALLA FRANCIS, as Personal  
Representative for the Estate of George  
Alexander,

Plaintiffs - Appellants,

v.

BANKERS LIFE AND CASUALTY  
COMPANY, an Illinois insurance company;  
CNO FINANCIAL GROUP, Inc., a  
Delaware corporation,

Defendants - Appellees.

No. 14-35397

D.C. No. 3:13-cv-00580-PK

MEMORANDUM\*

Appeal from the United States District Court  
for the District of Oregon  
Paul J. Papak II, Magistrate Judge, Presiding

Argued and Submitted October 4, 2016  
Portland, Oregon

Before: CLIFTON, MURGUIA, and NGUYEN, Circuit Judges.

On February 24, 2017, we certified the following question of state law to the

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\* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

Oregon Supreme Court:

Does a plaintiff state a claim under Oregon Revised Statutes § 124.110(1)(b) for wrongful withholding of money or property where it is alleged that an insurance company has in bad faith delayed the processing of claims and refused to pay benefits owed under an insurance contract?

The Oregon Supreme Court answered our certified question on January 19, 2018.

*Bates v. Bankers Life & Cas. Co.*, 408 P.3d 1081, 1082–83 (Or. 2018)

(“Allegations that an insurance company, in bad faith, delayed the processing of claims and refused to pay benefits owed to vulnerable persons under an insurance contract do not state a claim under ORS 124.110(1)(b) for wrongful withholding of ‘money or property.’”). In light of the Oregon Supreme Court’s answer, we conclude that the district court’s dismissal of Appellants’ elder abuse claim under Oregon Revised Statutes § 124 *et seq.* was proper, and we affirm.

**AFFIRMED.**