

United States District Court  
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RICHARD W. DOBLE JR., et al.,

No. C 09-01611 CRB

Plaintiffs,

**ORDER DENYING DEFENDANT'S  
MOTION FOR PARTIAL SUMMARY  
JUDGMENT AND SETTING STATUS  
CONFERENCE**

v.

MEGA LIFE & HEALTH INS. CO.,

Defendant.

The Court recently granted Plaintiffs Richard and Rochelle Doble's Motion for Partial Summary Judgment, and denied Defendant Mega Life & Health Insurance Company's Motion, finding that Mega breached its insurance contract with the Dobles when it denied coverage for Rochelle Doble's medical equipment. See dckt. no. 140. Language in the Court's Order apparently gave rise to Mega's second Motion for Partial Summary Judgment, this time on the Dobles' cause of action for breach of the covenant of good faith and fair dealing. See dckt. no. 145. Mega reasons that if the breach of contract claim was a "close question," as the Court found, then Mega cannot have acted in bad faith. Id. at 1. Mega's motion was based on the genuine dispute doctrine. See, e.g., Guebara v. Allstate Ins. Co., 237 F.3d 987, 992 (9th Cir. 2001) (bad faith claim may be properly dismissed on summary judgment "if the defendant can show that there was a genuine dispute as to coverage").

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1           Having carefully considered the arguments in the parties' papers and at the motion  
2 hearing today, the Court DENIES Mega's Motion. "[A]n insurer is not entitled to judgment  
3 as a matter of law where, viewing the facts in the light most favorable to the plaintiff, a jury  
4 could conclude that the insurer acted unreasonably." Wilson v. 21st Century Ins. Co., 42  
5 Cal. 4th 713, 724 (2007) (internal quotations omitted). The Court will consider at the close  
6 of Plaintiffs' case whether to submit Plaintiffs' bad faith claim to the jury. See Fed. R. Civ.  
7 P. 50(a).

8           In addition, the Court notified the parties today that it was vacating the existing dates  
9 for the pretrial conference (November 2, 2010) and beginning of trial (November 15, 2010).  
10 The parties are INSTRUCTED to return to court for a further status conference on Monday,  
11 **November 22, 2010** at 10:00 a.m., at which new dates for the pretrial conference and  
12 beginning of trial will be set.

13           **IT IS SO ORDERED.**

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16 Dated: October 29, 2010



CHARLES R. BREYER  
UNITED STATES DISTRICT JUDGE