

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

CAMEO DELOACH,

Plaintiff,

v.

CASE NO.: 8:14-cv-242-T-23AEP

STATE FARM MUTUAL AUTO.
INS. CO.,

Defendant.

ORDER

The plaintiff sues the defendant for uninsured motorist benefits and for bad faith. The defendant moves (Doc. 3) to dismiss the bad faith claim (Count II) as premature. Although an insured's dissatisfaction with the manner in which the insurer handles a claim might warrant a bad faith claim, the bad faith claim must await a favorable adjudication on the merits of the insured's claim for breach of the insurance agreement. *See Blanchard v. State Farm Mutual Auto. Ins. Co.*, 575 So. 2d 1289 (Fla. 1991) ("If an uninsured motorist is not liable to the insured for damages arising from an accident, then the insurer has not acted in bad faith in refusing to settle the claim. Thus, an insured's underlying first-party action for insurance benefits against the insurer necessarily must be resolved favorably to the insured before the cause of action for bad faith in settlement negotiations can accrue. It

follows that an insured's claim against an uninsured motorist carrier for failing to settle the claim in good faith does not accrue before the conclusion of the underlying litigation for the contractual uninsured motorist insurance benefits. Absent a determination of the existence of liability on the part of the uninsured tortfeasor and the extent of the plaintiff's damages, a cause of action cannot exist for a bad faith failure to settle." In response (Doc. 4) the plaintiff "agrees that a statutory bad faith claim may not be prosecuted until all claims to contract benefits are finally determined." The plaintiff requests that the bad faith claim be either abated or dismissed without prejudice.

The defendant's motion (Doc. 3) is **GRANTED**, and the bad faith claim (Count II) is **DISMISSED WITHOUT PREJUDICE**. The defendant's motion (Doc. 6) for leave to reply is **DENIED AS MOOT**.

ORDERED in Tampa, Florida, on February 21, 2014.



STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE