

STATE OF LOUISIANA
COURT OF APPEAL, FIRST CIRCUIT

ASCENSION PARISH GOVERNMENT
AND KENNETH MATASSA

NO. 2020 CW 0836

CONSOLIDATED WITH

VERSUS

NO. 2020 CW 0843

BERKLEY INSURANCE COMPANY
AND HARRY ROBERT INSURANCE
AGENCY, INC.

DECEMBER 14, 2020

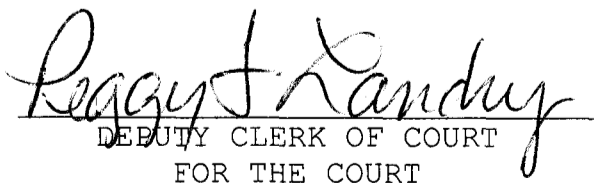
In Re: Berkley Insurance Company and Ascension Parish Government and Kenneth Matassa, applying for supervisory writs, 23rd Judicial District Court, Parish of Ascension, No. 125859.

BEFORE: HIGGINBOTHAM, THERIOT, AND WOLFE, JJ.

WRIT GRANTED IN PART; DENIED IN PART. The portion of the district court's July 15, 2020 judgment that granted the Cross-Motion for Summary Judgment filed by Berkley Insurance Company in part and dismissed the bad faith insurer claims asserted by Plaintiffs, Ascension Parish Government and Kenneth Matassa ("Plaintiffs"), is hereby reversed. Whether an insurer's action was arbitrary, capricious, or without probable cause is a fact issue. See Louisiana Bag Co., Inc. v. Audubon Indemn. Co., 2008-453 (La. 12/2/08), 999 So.2d 1104, 1120. We find Plaintiffs demonstrated a genuine issue of material fact as to whether Berkley Insurance Company was arbitrary or capricious in denying their claim. Accordingly, the Cross-Motion for Summary Judgment filed by Berkley Insurance Company is denied as to the bad faith insurer claims asserted by Plaintiffs under La. R.S. 22:1973. The writ application is denied as it relates to the issue of coverage under the Public Official, Employment Practices & Employee Benefits Liability insurance policy issued to Ascension Parish Government by Berkley Insurance Company.

TMH
MRT
EW

COURT OF APPEAL, FIRST CIRCUIT


DEPUTY CLERK OF COURT
FOR THE COURT