

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

WALDEMAR BARANOWSKI,

Plaintiff,

v.

CASE NO.

**GEICO GENERAL INSURANCE COMPANY,
a foreign insurance corporation,**

Defendants,

_____ /

COMPLAINT

Plaintiff, WALDEMAR BARANOWSKI, a citizen of Florida, by and through undersigned counsel and pursuant to 28 U.S.C. § 1332, hereby files this Complaint and Demand for Jury Trial for damages against Defendant, GEICO GENERAL INSURANCE COMPANY, a foreign insurance corporation, and alleges as follows:

1. This is an action for damages brought pursuant to 28 U.S.C. § 1332 over which this court has jurisdiction with an amount in controversy that exceeds the sum of \$75,000.00, exclusive of costs, interest, and attorneys' fees.

2. At all times material hereto, the Defendant, GEICO GENERAL INSURANCE COMPANY, is a foreign corporation organized and existing under the laws of the State of Maryland, with its principal place of business in Chevy Chase, Maryland; therefore, GEICO GENERAL INSURANCE COMPANY is a citizen of the State of Maryland.

3. At all times material hereto, the Plaintiff, WALDEMAR BARANOWSKI, was a citizen of the State of Florida.

4. At all times material hereto the Defendant, GEICO GENERAL INSURANCE COMPANY, maintained agents and representatives for the purpose of adjusting and supervising claims at its regional offices located on Pipkin Road in Polk County, Florida.

5. On or about May 20, 2009, WALDEMAR BARANOWSKI operated his motor vehicle on the roads and highways of the State of Florida with Jiri Renotiere as a passenger. At that time and place, WALDEMAR BARANOWSKI was negligent when he lost control of his vehicle and collided with a curb and guardrail, causing Jiri Renotiere to be ejected from the vehicle and to suffer severe burns.

6. At all material times, Defendant, GEICO GENERAL INSURANCE COMPANY, provided liability insurance to Plaintiff and Insured, WALDEMAR BARANOWSKI, Policy No. 4100-54-26-97 (“the Policy”), issued to WALDEMAR BARANOWSKI, with limits of liability totaling \$10,000 each person/\$20,000 each occurrence for Bodily Injury (BI) liability coverage. Said policy was in full force and effect on the date of the aforementioned accident and provided coverage to WALDEMAR BARANOWSKI for liability resulting from any negligence committed by him that was the proximate cause of injury and damages to Jiri Renotiere. The policy disclosure provided by Defendant’s employee K. Doster on July 10, 2009 with the declarations page and

insurance policy from GEICO GENERAL INSURANCE COMPANY is attached hereto as **Exhibit A.**

7. Jiri Renotiere and his wife, Marie Renotiere, filed suit against WALDEMAR BARANOWSKI in the Twentieth Judicial Circuit, Lee County, Florida, case no. 09-CA-005110, alleging that the aforementioned accident and related damages were a direct and proximate result of the negligence of WALDEMAR BARANOWSKI, and that Jiri Renotiere sustained bodily injuries and Marie Renotiere sustained loss of consortium (the “underlying action”). The aforementioned suit when to trial and a jury returned a verdict against WALDEMAR BARANOWSKI on February 10, 2012.

8. Pursuant to said verdict, on February 17, 2012, the Court entered a Final Judgment in favor of Jiri Renotiere and Marie Renotiere and against WALDEMAR BARANOWSKI in the amount of \$2,703,000, in the aforementioned case, for which let execution issue and which is drawing interest at the statutory rate under Florida law as of February 17, 2012. A copy of the Final Judgment is attached hereto and incorporated by reference as **Exhibit B.**

9. Thereafter, pursuant to said verdict, on March 13, 2012 the Court entered an Amended Final Judgment on Compensatory Damages in favor of Jiri Renotiere and Marie Renotiere and against WALDEMAR BARANOWSKI in the amount of \$2,693,000, in the aforementioned case, for which let execution issue and which is drawing interest at the statutory rate under Florida law as of March 13, 2012. A copy of the Amended Final Judgment is attached hereto and incorporated by reference as **Exhibit C.**

10. Thereafter, pursuant to said verdict, on June 29, 2012 the Court entered a Second Amended Final Judgment on Compensatory Damages in favor of Jiri Renotiere and Marie Renotiere and against WALDEMAR BARANOWSKI in the amount of \$2,686,383.50, in the aforementioned case, for which let execution issue and which is drawing interest at the statutory rate under Florida law as of June 29, 2012. A copy of the Second Amended Final Judgment is attached hereto and incorporated by reference as **Exhibit D.**

11. Thereafter, pursuant to said verdict, on June 29, 2012 the Court entered a Final Judgment on Taxable Costs in favor of Jiri Renotiere and Marie Renotiere and against WALDEMAR BARANOWSKI in the amount of \$88,285.28 in the aforementioned case, for which let execution issue and which is drawing interest at the statutory rate under Florida law as of June 29, 2012. A copy of the Final Judgment on Taxable Costs is attached hereto and incorporated by reference as **Exhibit E.**

12. All claims, defenses or issues raised in the lawsuit described above are finally resolved and are res judicata between the parties and their privies.

13. WALDEMAR BARANOWSKI has complied with all of the terms and requirements of the insurance contract described above, and all conditions precedent to the maintenance of this action.

14. Defendant, GEICO GENERAL INSURANCE COMPANY, knew or should have known that the facts sufficiently certain as to liability so that it was probable

that a verdict and judgment in favor of Jiri Renotiere and Marie Renotiere in the underlying action would be entered against WALDEMAR BARANOWSKI was not settled.

15. Defendant, GEICO GENERAL INSURANCE COMPANY, knew or should have known that the injuries sustained by Jiri Renotiere were of such a serious nature that if the case were not settled, it would result in a verdict and judgment in favor of Jiri Renotiere and Marie Renotiere for an amount far in excess of the policy limits of the liability policy issued by GEICO GENERAL INSURANCE COMPANY to WALDEMAR BARANOWSKI.

16. By virtue of the insurance contract, GEICO GENERAL INSURANCE COMPANY and its employees and agents had a duty to use due care in the investigation of said accident and in the handling of the claim and in evaluation of the claim for settlement purposes, and had a duty to act in good faith and give due consideration to the interests of its Insured, in the negotiation and settlement of the claim and in consideration of settlement offers.

17. The aforementioned duty required GEICO GENERAL INSURANCE COMPANY to consider all of the circumstances of the claim, and to settle, if possible, where a reasonably prudent person, faced with the prospect of paying the total recovery, would do so.

18. GEICO GENERAL INSURANCE COMPANY was further obligated to advise its Insured, WALDEMAR BARANOWSKI, of settlement opportunities, to advise

as to the probable outcome of the litigation, to warn of the possibility of an excess judgment and to advise the Insured of any steps he might take to avoid same.

19. Defendant, GEICO GENERAL INSURANCE COMPANY, acted in bad faith in that, under all the circumstances, it acted in its own interests and disregarded the interests of its Insured, in that:

a. It failed to accept a reasonable offer and opportunity to settle this case within its policy limits when it could and should have done so, had it considered the claim as a reasonably prudent person would have if faced with the prospect of paying the entire recovery;

b. It failed to accept a reasonable settlement offer and opportunity to settle this case within policy limits when, under all the circumstances, it could and should have done so, had it acted fairly and honestly toward the Insured and with due regard for the Insured's interests;

c. It failed to exercise reasonable care and good faith in the investigation, negotiation, and attempted settlement of the claim made against the Insured;

d. It failed to advise the Insured of settlement opportunities, to advise as to the probable outcome of the litigation, to warn of the possibility of an excess judgment, and to advise the insured of any steps he might take to avoid the same;

e. It failed to exercise reasonable diligence and a level of care commensurate with the undertaking, in every aspect of handling the underlying claim against WALDEMAR BARANOWSKI;

f. It failed to adopt and implement standards for the proper investigation and handling of claims, commensurate with the needs of the types of claims reasonably anticipated that would be presented against its insured;

g. It failed to properly train adjusters and claims personnel for the types of claims which would be undertaken by those employees;

h. It failed to comply with its own policies and procedures, including but not limited to its claims manuals, in the handling of the claim;

i. It engaged in negligent conduct in its handling of the claim, which is evidence of bad faith; and

j. It failed to fully, honestly, and promptly advise WALDEMAR BARANOWSKI concerning all settlement opportunities, of the likelihood of a recovery in excess of the policy limits, and of any procedures which were available to lessen the financial impact of the underlying claim upon him.

20. As a result of the bad faith of GEICO GENERAL INSURANCE COMPANY in its handling of the claim, failure to settle the case within the policy limits and failure to properly advise its Insured, the claim against WALDEMAR BARANOWSKI was not settled within policy limits, and a jury returned a verdict against WALDEMAR BARANOWSKI, and pursuant to said verdict, the Court entered the aforementioned final judgments for damages in favor of Jiri Renotiere and Marie Renotiere and against WALDEMAR BARANOWSKI in the aforementioned case, for which let execution issue and which are drawing interest at the statutory rate from the dates of entry of the judgments.

21. Plaintiff, WALDEMAR BARANOWSKI, is entitled to recover damages against GEICO GENERAL INSURANCE COMPANY as a result of the aforementioned bad faith. Said damages include, but are not limited to, damages to satisfy the amount of the aforementioned final judgments plus interest.

22. Plaintiff, WALDEMAR BARANOWSKI, was required to retain the services of the undersigned attorneys to bring this action and is obligated to pay said attorneys their fees and costs.

WHEREFORE the Plaintiff, WALDEMAR BARANOWSKI, demands judgment against the Defendant, GEICO GENERAL INSURANCE COMPANY, for all damages, including but not limited to for the sum of \$2,686,383.50 plus costs in the amount of \$88,285.28, which total \$2,774,668.78, plus pre-judgment interest, post-judgment interest, the costs associated with bringing this action and the attorney's fees associated with prosecuting this action (including but not limited to under Section 627.428, Florida Statutes and any other applicable contract or statute), and any other damages recoverable by law.

Jury Trial Demand

The Plaintiff demands trial by jury on all issues so triable.

s/Kerry C. McGuinn, Jr.

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