



drafters of the 1990 edition of *Black's Law Dictionary*, those terms not only are non-mandatory under Pennsylvania's bad faith statute; they generally are analytically unhelpful as well.

Many species of bad faith may flourish notwithstanding the absence of either "self-interest" or "ill will." Shoddy claims-handling, lack of diligence, non-responsiveness, haphazard investigation, unreasonable denials, and the like, all may come within the statutory definition of bad faith while nonetheless falling short of the "self-interest"/"ill will" threshold. "Ill will" suggests an unduly personal or vindictive motive, something that is (and indubitably should be) exceptionally rare in these contexts. In the universe of bad faith insurance claims, "ill will" is more often than not a red herring, and should in any event be given no totemic weight. "Self-interest" suggests that an adjuster or other claims-handler perceives some personal financial benefit that will follow from denial of a claim, something that, while plausible in theory, certainly is far from universal in bad faith cases. In any event, these terms cannot be permitted to devour the definition of bad faith as a whole. The *Terletsky* reference to the *Black's Law Dictionary* 1990 definition inadvertently allowed for confusion (or creative advocacy) on this point. It is salutary that the Majority has now entombed that idea.<sup>1</sup>

Knowing or reckless claims-handling leading to objectively unreasonable denial of benefits, if proven by clear and convincing evidence,<sup>2</sup> embodies the principle that a

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<sup>1</sup> Nor are we the only ones to have clarified that neither self-interest nor ill will is necessary to a finding of bad faith in the insurance context. The most recent edition of *Black's Law Dictionary*, too, has eliminated any suggestion to that effect. See *Black's Law Dictionary* 166 (10th ed. 2014).

<sup>2</sup> See *Terletsky v. Prudential Prop. & Cas. Ins. Co.*, 649 A.2d 680, 688 (Pa. Super. 1994) (citing *Cowden v. Aetna Cas. & Sur. Co.*, 134 A.2d 223, 227 (Pa. 1957) for the "clear and convincing evidence" standard of proof).

patent absence of good faith is tantamount to the presence of bad faith. Unless our General Assembly intervenes to supersede the Majority's understanding of the legislative will, this is the rule that our courts must apply.