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CASE SUMMARY: NO BAD FAITH IF COVERAGE IS CORRECTLY DENIED

The insurer's denial of coverage for an Intellibed Mattress was not improper and accordingly a bad faith claim could not succeed.

Insurance law – Automobile insurance – Interpretation of policy – Statutory provisions – Independent medical examination – Bad faith – Practice – Summary judgments

Rahall v. Intact Insurance Co., [2019] A.J. No. 82, 2019 ABPC 11, Alberta Provincial Court, January 15, 2019, S.L. Corbett Prov. Ct. J.

The insurer denied coverage for an Intellibed Mattress claimed under medical benefits following a motor vehicle accident on the basis that it was not a medical supply essential for rehabilitation. The policy required both the insured's attending physician and the insurer's medical advisor to agree that an item is essential for rehabilitation. The insured's physician was of the opinion that the Intellibed was essential for rehabilitation. The insurer scheduled a medical examination with an orthopedic surgeon to determine whether the Intellibed was medically necessary. The orthopedic surgeon opined that the insured would not need the IntelliBed as his neck injury and low back injury had both resolved. As both physicians did not agree the mattress was essential, it was not covered by the policy.

The court refused the plaintiff's application to amend the claim to plead bad faith against the insurer on the basis that a bad faith claim could not succeed where the insurer has not breached its obligations pursuant to the policy.

This case was digested by [Dionne H. Liu](#), and first published in the LexisNexis® Harper Grey Insurance Law Netletter and the Harper Grey Insurance Law Newsletter. If you would like to discuss this case further, please contact Dionne H. Liu at dliu@harpergrey.com.