

## Policyholder Playbook Episode 52: A Path to Extracontractual Relief in D.C.

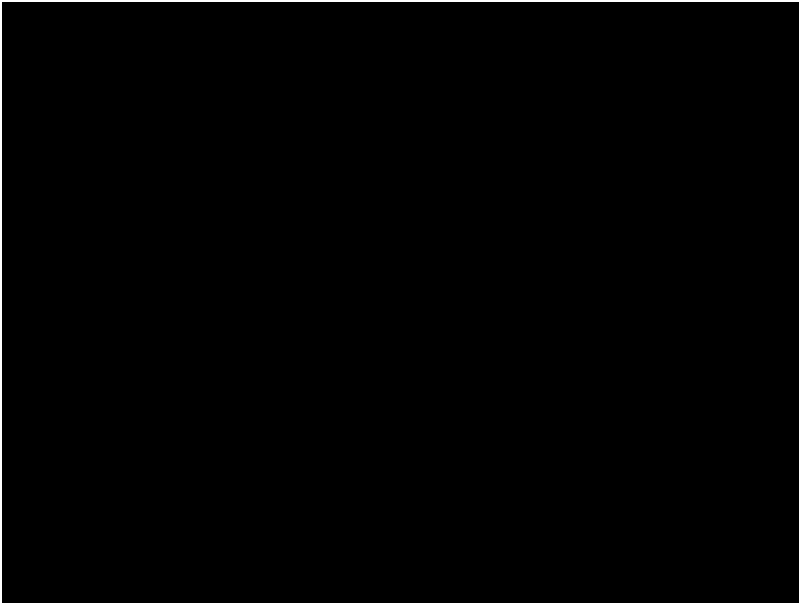
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February 24, 2026 Greg Van Houten

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### Show Notes:

Today's episode centers on how to structure and plead a bad faith claim in the District of Columbia, based on a recent federal district court opinion.

The opinion, rendered in the case *James Terrell v. Liberty Insurance Corp.*, tells us three things:

*First*, the District of Columbia does not recognize the tort of bad faith in disputes over contracts, unless the tort claim would exist in the absence of the parties' contractual relationship.

*Second*, while the District of Columbia does not recognize the tort of bad faith, it does recognize that an insurer may breach the implied covenant of good faith and fair dealing that is implicit in all contracts. But, to be clear, the breach of the covenant does not give rise to a tort action, but a contract action—the idea being that the breach of the covenant is a breach of a term implicit in the contract.

*Third*, and most importantly from my perspective, under District of Columbia law, a policyholder can recover its attorneys' fees in an insurance coverage action if it can establish that the insurer "acted in bad faith, vexatiously, wantonly or for oppressive reasons." Applying that standard in *Terrell*, the court denied the insurer's motion to dismiss the policyholder's prayer for attorneys' fees, since the policyholder alleged that the insurer vexatiously refused to pay for certain costs.

This is critical because: why plead bad faith, anyway? One reason is to open the door to extracontractual damages, like attorneys' fees.

Well, here's your backdoor to a form of extracontractual damages, even though the tort of bad faith may be difficult to plead in D.C. What the policyholder must do is pray for attorneys' fees and then support that prayer by alleging that, in breaching the insurance policy, the insurer "acted in bad faith, vexatiously, wantonly, or for oppressive reasons."

Good luck out there.