

California Court of Appeal Affirms Ruling That a Mental Disorder Accompanied by Physical Symptoms is Not Subject to a Policy's Two-Year Limitation for Mental Claims

In 2009, the California Court of Appeal in *Bosetti v. The United States Life Ins. Co.*, 175 Cal. App. 4th 1208 (2009) addressed whether a two-year benefits limitation on disability insurance payments for “mental, nervous or emotional disorder[s]” could properly serve to limit benefits payable to an insured who was disabled from depression and anxiety, but who also complained of interrelated physical impairments. The California Insurance Litigation Blog summarized that holding here (<http://www.californiainsurancelitigation.com/punitive-damages/court-of-appeal-complicates-the-analysis-of-mental-and-nervous-disability-claims/>), but basically, the Court ruled that the policy’s two-year mental limitation was ambiguous and an insured would reasonably expect that disabling depression arising from a physical condition, would not be subject to the limitation. (The Court also ruled that there was a genuine dispute regarding whether U.S. Life’s claim decision violated the covenant of good faith and fair dealing.)

The 2009 ruling reversed the summary judgment issued in favor of The United States Life Insurance Company in the City of New York (“U.S. Life”) and the matter was remanded for trial. After a presentation of the evidence, a jury ruled in Bosetti’s favor. However, U.S. Life filed two motions – for a judgment notwithstanding the verdict and for a new trial. While U.S. Life conceded that Bosetti demonstrated that her disability had a physical component, the insurer argued that she failed to prove that her physical symptoms had caused her disability prior to March 3, 2003 (the date she was terminated from her job). The trial judge granted both motions, and Bosetti filed another appeal.

In an unpublished opinion, the Court of Appeal considered the trial court’s ruling on both of the post-verdict motions. First, after reviewing the available record, the Court determined that the verdict in Bosetti’s favor was supported by substantial evidence, including specifically that her depression caused the disabling physical symptom of an increase in her fibromyalgia pain. Based on these facts, the Court reversed the trial court’s ruling on the motion for judgment notwithstanding the verdict. In reaching this conclusion, the Court of Appeal affirmed its earlier ruling that a limitation on coverage for “mental, nervous or emotional disorders of any type” does not apply if the insured’s disability was caused, in any part, by her physical symptoms.

However, with respect to U.S. Life’s motion for a new trial, the Court of Appeal explained that the trial judge is afforded great deference and “an order granting a new trial `must be sustained on appeal unless the opposing party demonstrates that no reasonable finder of fact could have found for the movant on [the trial court's] theory,” Applying this standard, the appellate court affirmed the order granting a new trial after finding that there was also substantial evidence that would have supported a verdict in U.S. Life’s favor.

While the case was remanded to the trial court for a second trial, the Court of Appeal did not overturn its 2009 ruling, and thus *Bosetti I* and its position regarding mental disabilities with physical symptoms should still be considered good law.