United States Court of Appeals
For the Eighth Circuit

No. 25-2632

Joseph Russell Falasco

Plaintiff - Appellant

v.

USAA Casualty Insurance Company

Defendant - Appellee

Appeal from United States District Court
for the Eastern District of Arkansas - Central

Submitted: June 11, 2026
Filed: August 18, 2026

Before COLLOTON, Chief Judge, ERICKSON and GRASZ, Circuit Judges.

ERICKSON, Circuit Judge.

Joseph Russell Falasco sued the USAA Casualty Insurance Company ("USAA") for breach of insurance contract, bad faith, and unfair claims settlement practices relating to USAA's handling of Falasco's insurance claim on his Porsche 911S. USAA moved for partial summary judgment on Falasco's bad faith and unfair settlement practices claims, which the district court[1] granted. Falasco appeals the partial grant of summary judgment in favor of USAA, and we affirm.

I. BACKGROUND

In 2018, Falasco purchased a 1974 Porsche 911S and insured it through USAA. Falasco spent the next several years restoring the car, including the installation of a new engine and transmission. On August 12, 2023, while Falasco and his daughter were driving the partially restored Porsche to run errands, the car caught fire. While the fire department was on scene, Falasco called USAA to report the claim. Falasco explained to a USAA representative named Bree that his car had caught fire and that he believed it was a total loss. Bree asked Falasco if he filed a police report, and when Falasco explained that only the fire department had responded, Bree told Falasco, "[t]hat's fine. And if you end up having a report later, you can always give us that information. We just ask if you have a report or not." Bree arranged for a tow truck to remove Falasco's vehicle and told him "[a]n adjuster [would] be reaching out . . . if any additional information is going to be needed."

Two days after the fire, on August 14, Falasco received a "Reservation of Rights" letter from USAA signed by claims adjuster Belicia Adams. The letter explained that USAA was investigating Falasco's claim to "confirm whether the loss is covered under" Falasco's policy. The Reservation of Rights indicated that USAA was investigating whether the loss was excluded from coverage under the policy exclusion for "[m]echanical or electrical breakdown or failure." That same day, Adams called Falasco to obtain additional information about the Porsche and the fire. During the conversation, Falasco told Adams the fire department had offered no opinion as to the cause of the fire. When Adams asked whether the fire department had given Falasco a report or case number, Falasco said it had not and explained that Bree had previously told him a report was not necessary. Adams

[1]The Honorable Brian S. Miller, United States District Judge for the Eastern District of Arkansas.

explained that USAA needed a report or it would have to conduct its own investigation to determine the cause of the fire. Adams told Falasco that Bree had provided "false information" when she told Falasco a report was not necessary.

USAA requested Falasco release the Porsche to Copart, a salvage yard in Conway, Arkansas, so it could be inspected and appraised. Falasco agreed, and Copart took possession of the car on August 15. On August 16, Falasco spoke with appraiser Jon Richmond about the Porsche and provided Richmond with pictures of the Porsche before the fire. After examining the Porsche, Richmond determined the vehicle was a total loss but questioned whether the fire was accidental and referred the claim to USAA's special investigations unit.

On August 25, USAA sent Falasco a letter stating his "claim is unresolved because we have not received your decision regarding the settlement of the total loss of your vehicle." Falasco emailed Adams and USAA's CEO, Wayne Peacock, saying the letter was false because USAA had not made a total loss settlement offer. A couple hours later, Falasco received an automated email containing a link to a total loss settlement, but the link went to a blank page. Falasco called Adams, who told him "the total loss triggered itself, so the system automatically sent you that notice. But the review hasn't been complete yet, so [the settlement offer]'s technically withdrawn right now until the review is complete."

When Falasco inquired further about what USAA was reviewing, Adams told him the company was investigating the "fire loss" and could not answer any additional questions until the investigation was complete. Falasco understood this statement to mean USAA was investigating him for arson and fraud. While the investigation was ongoing, Copart, on behalf of USAA, repeatedly requested that Falasco sign over title to the Porsche to facilitate the claim settlement. Falasco asked Copart and USAA to stop their attempts to obtain the title because his claim had not been resolved.

In September 2023, USAA retained Eric Smith of Donan Engineering to conduct the investigation into the origin and cause of the fire. On September 11, Smith advised USAA that "the vehicle likely had a fuel line leak which was probably caused by deterioration of the rubber fuel lines." Smith could not rule out an oil leak but opined "the evidence was more consistent with a fuel leak." Based on Smith's investigation, USAA's special investigations unit "concluded there were no indications [of] an intentional fire and closed the investigation."

Two days after the special investigations unit concluded its investigation, USAA offered Falasco $46,106.75 to settle his claim.[2] USAA included an appraisal from CCC Intelligent Solutions, Inc. ("CCC") supporting its offer. The CCC appraisal estimated the value of Falasco's Porsche using two comparable vehicles—a 1973 Porsche 911T and a 1976 Porsche 911S Targa. Falasco rejected USAA's settlement offer, asserting "[t]he comparable vehicles used by CCC do not even approximate" his Porsche 911S. Falasco proposed two other comparable vehicles—a 1974 Porsche 911S and a 1974 Porsche 911 Carrera.

On September 25, USAA informed Falasco it could not accept his two proposed comparable vehicles as part of its valuation. USAA explained that Falasco's comparables were from the auction site "Bring A Trailer," which USAA's dispute team would not consider as part of its evaluation. USAA also explained that one of Falasco's proposed comparable vehicles was fully restored, but his Porsche was not. USAA told Falasco he had the right under his policy to seek an independent appraisal at his own expense and submit the appraisal for review. Falasco requested a copy of his insurance policy from Adams, asking her to point to the appraisal clause in the policy requiring him to obtain an appraisal at his expense. Adams told Falasco she could not access his policy, but she was informed by USAA's dispute team that Arkansas policies do not include an appraisal clause.

[2]USAA's settlement offer included a $2,991.60 deduction for prior damage that USAA had paid under a separate claim unrelated to the claim at issue in this case, and a $500 deductible. Falasco does not challenge the validity of these deductions.

Falasco continued to dispute USAA's valuation of his Porsche, maintaining USAA had not used truly comparable vehicles in its appraisal. On October 3, Falasco requested USAA tender the previously offered $46,106.75 as a partial settlement while the parties continued to discuss the disputed amount. Adams told Falasco USAA would not tender the undisputed amount unless he agreed it constituted a full settlement of his claim and signed the title to the Porsche to USAA because, "per arbitration law," Falasco could not continue to dispute the claim amount once USAA issued payment.

Falasco sued USAA, alleging claims for breach of insurance contract, bad faith, and unfair claims settlement practices. While litigation was ongoing, USAA tendered the undisputed amount of $46,106.75 as a partial settlement. Falasco then transferred title to the Porsche to USAA. In December 2023, RM Sotheby's reappraised the Porsche and determined its value was approximately $65,000. USAA then voluntarily paid Falasco the difference between the Sotheby's appraisal and its previous partial settlement payment.

After discovery, USAA moved for partial summary judgment on Falasco's bad faith and unfair settlement practices claims. The district court granted USAA's partial motion for summary judgment, concluding the undisputed facts showed USAA reasonably attempted to discharge its contractual obligations in good faith. The court held a jury trial on Falasco's breach of contract claim. The jury determined USAA breached its obligation to pay Falasco the true value of the Porsche and awarded Falasco $71,363.95 in total damages. Falasco now appeals the district court's partial grant of summary judgment in favor of USAA, arguing that genuine disputes of material fact exist on whether USAA acted in bad faith.[3]

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[3]Falasco does not challenge the district court's grant of summary judgment in favor of USAA on his unfair claims settlement practices claim.

II. DISCUSSION

Falasco contends the district court erred by granting USAA's motion for partial summary judgment because genuine disputes of material fact exist as to whether USAA's conduct constituted bad faith. "We review the district court's partial grant of summary judgment *de novo*, viewing the evidence in the light most favorable to the non-moving party." Smith v. SEECO, Inc., 922 F.3d 406, 411 (8th Cir. 2019). Summary judgment is appropriate when "there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a).

To prevail on a bad faith claim under Arkansas law, Falasco must show "the defendant insurance company engaged in affirmative misconduct that was dishonest, malicious, or oppressive." Unum Life Ins. Co. of Am. v. Edwards, 210 S.W.3d 84, 87 (Ark. 2005). "The standard for establishing a claim for bad faith is rigorous and difficult to satisfy." Id. "The 'dishonest, malicious, or oppressive' acts must be 'carried out with a state of mind characterized by hatred, ill will, or a spirit of revenge.'" Sims v. State Farm Mut. Auto. Ins. Co., 894 F.3d 941, 945 (8th Cir. 2018) (quoting Unum, 210 S.W.3d at 87). A bad faith claim "cannot be based upon good faith denial, offers to compromise a claim or for other honest errors of judgment by the insurer." Id. (quoting Aetna Cas. & Sur. Co. v. Broadway Arms Corp., 664 S.W.2d 463, 465 (Ark. 1984)). "Therefore, even when the insurance company is guilty of 'negligence, gross ignorance, or a complete failure to investigate a claim,' the tort of bad faith is unavailable." Id. (quoting S. Farm Bureau Cas. Ins. Co. v. Allen, 934 S.W.2d 527, 529 (Ark. 1996)).

Falasco identifies four ways USAA allegedly acted in bad faith: (1) undervaluing his Porsche and making a low settlement offer based on inappropriate comparable vehicles; (2) conducting a fraud and arson investigation to gain leverage in settlement negotiations; (3) misrepresenting various facts and policy provisions during the claims process; and (4) attempting to procure title to the Porsche before settling his claim.

A. Valuation and Appraisal

Falasco first contends USAA acted in bad faith by making him a "lowball" settlement offer based on a "fundamentally flawed" valuation process. Specifically, Falasco alleges USAA acted in bad faith by relying on CCC's valuation even though CCC used the wrong model of comparable vehicles and by ignoring evidence of more appropriate comparables.

Arkansas courts have long recognized "that property appraisement is not an exact science." Ark. State Highway Comm'n v. Muswick Cigar & Beverage Co., 329 S.W.2d 173, 176 (Ark. 1959). Valuation is a subjective process because an item, such as a vehicle, may be "worth different amounts to different people." Matter of Rash, 90 F.3d 1036, 1073 (5th Cir. 1996) (Smith, J., dissenting), rev'd, Assocs. Commercial Corp. v. Rash, 520 U.S. 953 (1997). See also Clippinger v. State Farm Auto. Ins. Co., 173 F.4th 817, 829 (6th Cir. 2026) (describing the "subjective nature of the fair-market-value inquiry" in insurance claims).

While Falasco may have disagreed with the value CCC and USAA attached to his Porsche, he points to no evidence in the record showing that CCC's valuation was fundamentally flawed or that USAA acted in bad faith by relying on CCC's valuation when making a settlement offer. See Unum, 210 S.W.3d at 89 (explaining that reliance on a third-party consultant "cannot reasonably be construed as affirmative bad-faith conduct"). CCC used a 1973 Porsche 911T and a 1976 Porsche 911S Targa as comparable vehicles when estimating the value of Falasco's Porsche. While these vehicles were not a perfect[4] match to Falasco's 1974 Porsche 911S,

[4]One of CCC's comparable vehicles indicated "the engine does not run." But Falasco's Porsche was not fully restored either. After purchasing it for $10,000, at the time of the fire, Falasco's Porsche had a damaged hood, water damage, missing interior and dash components, and deteriorated rubber fuel lines. The inability to

CCC explained the "comparable vehicles used in the determination of the Base Vehicle Value are not intended to be replacement vehicles but are reflective of the market value."

When Falasco challenged CCC's valuation, USAA invited him to submit additional comparable vehicles. Falasco pointed to two additional vehicles—a 1974 Porsche 911S and a 1974 Porsche 911 Carrera. According to Falasco, USAA ignored these comparable vehicles and refused to reconsider whether the CCC valuation was accurate. But the record shows USAA directly responded to Falasco's comparables, stating "Comp 1 and 2 are from Bring A Trailer which [the dispute team] cannot consider" in its evaluation and further noting "comp 1 is fully restored" while Falasco's Porsche was only partially restored. See Sims, 894 F.3d at 945 (stating that even if an insurer should have given more weight to evidence submitted by an insured, the failure to do so falls short of bad faith).

When Falasco and USAA still could not agree on the correct value of Falasco's claim, USAA retained Sotheby's to reappraise the Porsche. After Sotheby's determined the Porsche was worth approximately $65,000, USAA voluntarily paid Falasco the difference between the Sotheby's valuation and its previous partial settlement payment. Under these circumstances, Falasco's argument that USAA acted in bad faith by relying on CCC's initial appraisal is unpersuasive. See Mason's Auto. Collision Ctr., LLC v. Auto-Owners Ins. Co., 651 F. Supp. 3d 1047, 1053 (W.D. Ark. 2023) (finding no bad faith where insurer had vehicle reappraised and based its final payment on the updated appraisal).

Falasco's argument that Tilghman v. Allstate Property & Casualty Insurance Co., 22 F.4th 752 (8th Cir. 2022) supports his bad faith claim is also unavailing. In Tilghman, this Court held a plaintiff's bad faith claim failed as a matter of law where the jury returned a verdict awarding $28,000 less in damages than the insurance

find an identical vehicle in the same condition in the same market is part of what makes valuation difficult. See Ark. State Highway Comm'n, 329 S.W.2d at 176 ("[P]roperty appraisement is not an exact science.").

company offered as a proposed settlement. Id. at 755-56 (applying Arkansas law). According to Falasco, Tilghman establishes that USAA acted in bad faith because a jury awarded him $71,363.95 in damages, but USAA initially offered a settlement of only $46,106.75.

Contrary to Falasco's argument, Tilghman does not establish that an insurer acts in bad faith any time a jury awards more than the insurer's initial settlement offer. Rather, Tilghman reaffirms that "where an insurer discharges, or reasonably attempts to discharge, its contractual obligations, the floor falls out from under the insured's bad faith claim." Id. at 756. "[A] jury verdict on an insured's breach of contract claim can reveal whether the insurer reasonably attempted to discharge its obligations." Id.

Here, a jury awarded Falasco $71,363.95 on his breach of contract claim, resulting in a final judgment of $8,043.70 after deducting payments USAA had already made to partially settle Falasco's claim. While Falasco is correct that the jury's verdict was higher than USAA's initial valuation and its partial settlement payments, the marginal difference between the jury verdict and USAA's partial settlement payments shows that USAA reasonably attempted to discharge its insurance obligation.

Simply put, the undisputed facts show Falasco believed the value of his Porsche was higher than the value USAA and CCC attached to the vehicle. But "[b]ad faith is not established when a plaintiff simply dislikes an initial settlement offer." Finley v. State Farm Mut. Auto. Ins. Co., No. 5:23-cv-5030, 2023 WL 3063379, at *2 (W.D. Ark. Apr. 24, 2023). Instead, "[a]ny disputes about coverage are better addressed through the breach of contract claims." Mason's Auto., 651 F. Supp. 3d at 1054. Because Falasco's disagreement with USAA's valuation was adequately addressed at the jury trial, we agree with the district court that USAA did not act in bad faith.

B. Fraud and Arson Investigation

Next, Falasco contends USAA acted in bad faith by investigating his claim for fraud and arson. According to Falasco, USAA's investigation was used to gain leverage in settlement negotiations and pressure Falasco to accept a lower settlement offer.

In cases where an insurer believes an investigation is necessary before paying a claim, Arkansas law allows the insurer a reasonable time to conduct its investigation. See Ark. Code R. § 054.00.43-8 (allowing insurers 45 days after notification of a claim to complete an investigation). When Falasco filed his claim, he did not have a report from the police or fire department identifying the cause of the fire. Falasco told USAA he could "guess" the fire was caused by a fuel leak but was uncertain of the cause. Absent any determination as to the cause of the fire, it was reasonable for USAA to investigate further before paying the claim. See Flowers v. Am. Nat'l Prop. & Cas. Co., No. 4:19-cv-00385, 2020 WL 5833994, at *4 (E.D. Ark. Sept. 30, 2020) (saying insurers are "entitled to protect themselves against potentially fraudulent or inflated claims" and finding no bad faith where an insurer used "routine insurance procedures designed to distinguish good claims from bad").

Falasco contends investigating the fire as arson amounts to bad faith because USAA had no evidence suggesting wrongdoing. While USAA's investigation may have been thorough, it was not undertaken in bad faith. Cf. Metro. Prop. & Cas. Ins. Co. v. Calvin, 802 F.3d 933, 940 (8th Cir. 2015) ("At best, the allegations demonstrate that Metropolitan aggressively sought to investigate the insurance claim, but there is no evidence that Metropolitan's actions were dishonest, malicious, or oppressive."). Falasco also contends USAA's characterization of the fire as suspected arson was in bad faith because the investigation confirmed Falasco's initial suspicion that the fire was caused by a fuel leak. Even when an investigation confirms a fire was unintentional, an insurer's decision to investigate a fire of unknown origin as arson does not rise to the level of bad faith. See Riggs v. Valley

Forge Ins. Co., Civ. No. 08-03058, 2009 WL 3158207, at *5 (W.D. Ark. Sept. 28, 2009), aff'd, 404 Fed. Appx. 87 (8th Cir. 2010) (characterizing a suspicious fire as arson does not rise to the level of bad faith).

Falasco also contends USAA's investigation was a bad faith attempt to avoid liability because USAA did not comply with Arkansas' statute for reporting suspected arson. See Ark. Code § 12-13-303 (requiring insurers to "notify an authorized agency" when the insurer "believe[s] that a fire loss in which it has an interest may be of other than accidental cause"). But Falasco's argument falls short of establishing bad faith because USAA's investigation determined the fire was caused by deterioration of the fuel lines, not arson. Because USAA concluded the fire was unintentional, it had no "other than accidental" fire to report. See Thomas v. Farm Bureau Ins. Co. of Ark., Inc., 698 S.W.2d 508, 510 (Ark. 1985) (explaining the Arson Reporting-Immunity Act applies when an insurer has an honest belief that the insured has committed arson); see also Metro. Prop., 802 F.3d at 940 (noting a mere failure to report suspected arson is insufficient to support a bad faith claim).

Finally, Falasco contends USAA acted in bad faith by conducting the fire inspection without him present, even though USAA had agreed he would be permitted to attend. USAA acknowledges it agreed to notify Falasco of the inspection but did not, but contends this omission was merely a miscommunication and Falasco was not harmed because the investigation was resolved in his favor. Falasco points to no evidence in the record showing USAA's failure to notify him of when the fire inspection would take place was the type of dishonest, malicious, or oppressive conduct that rises to the level of bad faith. While Falasco did not attend the inspection, he was in regular communication with USAA and even texted the investigator pictures of the Porsche to aid in the fire inspection. Viewing the evidence in the light most favorable to Falasco, the record shows that USAA's failure to inform Falasco of the time of the inspection so he could attend was, at most, the type of "negligence, gross ignorance," or "honest error[] of judgment" for which a bad faith claim is not available. Sims, 894 F.3d at 945.

C. Misrepresentations During the Claims Process

Falasco also contends USAA acted in bad faith by making several misrepresentations during the claims process, including misrepresentations about policy terms and claims procedures. Specifically, Falasco asserts USAA misrepresented: (1) that Falasco's policy contained an appraisal clause, even though such clauses are prohibited under Arkansas law; (2) that "arbitration law" prevented USAA from paying a partial settlement of Falasco's claim while the parties continued to dispute the value of the Porsche; (3) that Falasco did not need to provide a fire report as part of his claim; (4) that USAA did not have access to Falasco's policy documents; and (5) that Falasco had failed to respond to USAA's settlement offer even though no offer had been made.

1. Appraisal Clause

Falasco contends USAA acted in bad faith when Adams told Falasco he could obtain an appraisal at his own expense under the appraisal clause in his policy. Arkansas law prohibits the enforcement of appraisal clauses in insurance contracts. See Ark. Code § 23-79-203. While intentional misrepresentations of an insurance policy can give rise to bad faith liability, see Watkins v. S. Farm Bureau Cas. Ins. Co., 370 S.W.3d 848, 856 (Ark. Ct. App. 2009) (noting the Arkansas Supreme Court "has found bad faith where an insurance agent lied to the insured in stating that there was no coverage"), a bad faith claim cannot "be based upon negligence or bad judgment" as long as the insurer acted without "hatred, ill will or a spirit of revenge." Aetna, 664 S.W.2d at 465.

Falasco has not shown Adams' reference to the appraisal clause was made in bad faith. The undisputed evidence shows that Adams' reference to the appraisal clause was an honest mistake. Forty-eight states permit appraisal clauses. Unaware Arkansas prohibited such terms, Adams incorrectly assumed that Falasco's contract included an appraisal clause. When Adams realized she was mistaken, she contacted Falasco to correct her prior misstatement and clarified that his policy did not have an appraisal clause. USAA later retained RM Sotheby's at its own expense to conduct a new appraisal on the Porsche. While Adams' lack of knowledge of Arkansas law and the terms of Falasco's policy may have been negligent, we agree with the district court that her mistaken reference to an appraisal clause did not rise to the level of bad faith.

2. Arbitration Law

Falasco contends USAA acted in bad faith when Adams told him USAA could not make a partial settlement payment because "per arbitration law," Falasco could not continue to dispute the amount of his claim after accepting payment. Falasco alleges this statement is evidence of bad faith because USAA's policy allows an insured to dispute the amount of a claim even after receiving partial payment if the insured transfers title to the vehicle to USAA.

"To constitute bad faith, an insurer's affirmative misconduct must be in pursuit of avoiding its obligations under the insurance policy." Tilghman, 22 F.4th at 756. Adams' sworn declaration states that she "mistakenly told [Falasco] that he had to agree to the final settlement amount to receive payment pursuant to arbitration law and that he could no longer dispute the amount if he accepted payment." Adams stated she "was not clear about the process for resolving [Falasco's] claims after a lawsuit was filed" and "attempted to correct this mistake by sending correspondence to [Falasco] that he needed to complete the title process to receive payment."

Falasco points to no evidence in the record to dispute Adams' declaration or show her misstatement was affirmatively dishonest, malicious, or oppressive. Even though Adams was wrong when she told Falasco that "arbitration law" prevented USAA from making a partial settlement of Falasco's claim, "a mistake on an insurance carrier's part or negligence or confusion or bad judgment will not suffice to substantiate the tort of bad faith." Switzer v. Shelter Mut. Ins. Co., 208 S.W.3d 792, 802 (Ark. 2005). Without evidence suggesting Adams' mistake was motivated by ill will or was otherwise an attempt to avoid USAA's obligations under Falasco's insurance policy, there is no genuine issue of material fact that this statement rose to the level of bad faith.

3. Fire Report

Falasco contends USAA acted in bad faith when its customer service representative told Falasco he did not need a fire report to file his claim. When Falasco called USAA to report his claim and said the fire department had not given him a report, a USAA representative named Bree told him "if you end up having a report later, you can always give us that information. We just ask if you have a report or not." When Adams later told Falasco that USAA would have to conduct its own fire investigation if Falasco did not have a report from the responding fire department, Adams explained that Bree had provided Falasco with "false information."

While Falasco is correct that USAA's initial statement that a fire report was not required as part of his claim was inaccurate, nothing in the record supports Falasco's contention that this inaccuracy was affirmatively dishonest, malicious, or oppressive. The undisputed evidence shows that Bree, a customer service representative, made a mistake by telling Falasco a report was not required. Adams, a claims adjuster, corrected the misstatement and informed Falasco that USAA would conduct its own investigation to determine the cause of the fire if Falasco did not have a fire report. USAA then conducted an investigation, determined the claim was payable, and made Falasco a settlement offer.

While USAA's misstatement and subsequent fire investigation had the effect of delaying payment on Falasco's claim, "[m]ere delay in settlement does not rise to bad-faith conduct." Scobee v. USAA Cas. Ins. Co., 168 F.4th 507, 518 (8th Cir. 2026) (interpreting Kentucky law). Because Falasco has not shown that any delay caused by USAA's initial misstatement about the necessity of a fire report was an attempt to avoid its insurance obligations, see Tilghman, 22 F.4th at 756, there is no evidence this statement rose to the level of bad faith.

4. Policy Access

Falasco contends USAA acted in bad faith by refusing to provide a copy of his insurance policy upon his request. When Falasco asked Adams to send him a full copy of his policy, Adams explained that she could not access the policy but someone on the policy team could provide Falasco with a copy. The next day, Falasco confirmed that he had obtained a copy of the policy from USAA. Because USAA did not wrongfully withhold Falasco's policy and provided him with a copy upon his request, Adams' statement that she could not access the policy is not evidence of bad faith.

5. Settlement Offer Emails

Falasco contends USAA acted in bad faith when it sent him a series of automated emails indicating a settlement offer had been made and he had failed to respond. When Falasco inquired about the emails, Adams told him the emails were generated by USAA's computer system when the total loss determination was made, but the settlement offer was still being reviewed by a manager. Adams explained that to the extent any settlement offer had been made, the offer was withdrawn until USAA's review was complete.

Falasco does not point to any evidence showing the automated emails interfered with his ability to settle his claim or that USAA's withdrawal of the purported settlement offer pending further review was an attempt to avoid its obligations under Falasco's policy. See Tilghman, 22 F.4th at 756. Rather, the undisputed evidence shows the emails were automatically generated and sent prematurely before the settlement had completed the review process. Once the review process was complete, USAA promptly conveyed its settlement offer to Falasco. There is no genuine issue of material fact that the automated emails do not rise to the level of bad faith.

D. Title Procurement and Conversion

Finally, Falasco contends USAA acted in bad faith by repeatedly attempting to procure the title to the Porsche before his claim was resolved. Falasco asserts that USAA's refusal to return the Porsche and its repeated requests for the title amounted to wrongful conversion of the car.

Conversion under Arkansas law requires "that the defendant wrongfully committed a distinct act of dominion over the property of another, which is a denial of, or is inconsistent with, the owner's rights." Integrated Direct Mktg., LLC v. May, 495 S.W.3d 73, 75 (Ark. 2016). While evidence of conversion can give rise to the inference that an insurance company acted in bad faith by "convert[ing] [a] wrecked car in order to place the plaintiff under pressure to settle," Viking Ins. Co. of Wis. v. Jester, 836 S.W.2d 371, 377 (Ark. 1992), there must be evidence that the defendant's exercise of dominion over the vehicle was wrongful and in violation of the plaintiff's rights as owner.

Viewing the evidence in the light most favorable to Falasco, nothing in the record supports a finding that USAA attempted to convert the Porsche or otherwise acted in bad faith by requesting title to the Porsche during the fire investigation. Falasco initially consented to USAA taking possession of the Porsche as part of the claims process. See Tucker v. Scarbrough, 596 S.W.2d 4, 6 (Ark. Ct. App. 1980) (explaining a plaintiff cannot show conversion when he consented to the taking of property). While Falasco did request that USAA return the Porsche and USAA refused citing its ongoing investigation into the cause of the fire, USAA's refusal to return the Porsche does not amount to conversion because Falasco's insurance policy gave USAA the right "to inspect and appraise the damaged property before its repair or disposal." See also Ark. Code R. § 054.00.43-8 (allowing insurers 45 days after notification of a claim to complete an investigation).

Nor can Falasco point to any evidence in the record showing USAA's repeated requests for the title to the Porsche were malicious or oppressive. Rather, the undisputed evidence shows the repeated requests for the title before Falasco's claim was settled were the result of miscommunications between Falasco, USAA, and Copart regarding the status of his claim, and Adams specifically asked Copart to cease title procurement attempts pending further updates on the claim investigation.

Without evidence showing that USAA converted the Porsche or attempted to procure title to the Porsche to exert pressure on Falasco to settle his claim, Falasco fails to show that USAA acted in bad faith.

Neither the individual acts detailed above nor the acts collectively create a genuine issue of material fact on the bad faith claim. At most, some of USAA's conduct amounts to negligence, which is below the standard of "dishonest, malicious, or oppressive conduct carried out with a state of mind characterized by hatred, ill will, or a spirit of revenge" required to establish bad faith. State Auto Prop. & Cas. Ins. Co. v. Swaim, 991 S.W.2d 555, 559 (Ark. 1999). The district court did not err in granting summary judgment to USAA on this claim.

III. CONCLUSION

The judgment of the district court is affirmed.

GRASZ, Circuit Judge, dissenting.

I would reverse the district court's judgment. Both bases it gave for dismissing Falasco's bad faith claim are contrary to law and viewing the evidence in the light most favorable to Falasco, a reasonable jury could infer USAA acted in bad faith.

The majority wisely spends no time defending the district court's decision. The two reasons the district court gave for dismissing Falasco's bad faith claim — that "USAA's blind reliance on CCC . . . was not bad faith" and that his "claim is further undercut by the fact that USAA voluntarily paid him the difference between the CCC valuation and the Sotheby's valuation" — find no support in the law.

As to the first reason, it is true an insurer's "reliance on a third-party consultant" — in and of itself — does not amount to bad faith. *Ante* p. 7. But this does not mean insurers can rely on third-party consultants with impunity. To the contrary, insurers owe their insureds "the duty to act in good faith." *S. Farm Bureau Cas. Ins. Co. v. Parker*, 341 S.W.2d 36, 40 (Ark. 1960). And crucially, this "duty is nondelegable so that insurers cannot escape it by delegating tasks to third parties." *E.g.*, *Wathor v. Mut. Assur. Adm'rs, Inc.*, 87 P.3d 559, 562 (Okla. 2004); *accord Natividad v. Alexsis, Inc.*, 875 S.W.2d 695, 698 n.7 (Tex. 1994) ("By imposing a non-delegable duty of good faith and fair dealing on insurance companies we are sending a clear message — the buck stops with them. The insurance companies must answer for the 'sins' of their agents."). This makes sense. If insurers could eliminate the possibility of bad faith liability by farming out their claim handling, they would. And this would neuter the duty of good faith.

As to the district court's second reason, "[i]t is . . . well-established that a cause of action must exist *and be complete* at the time the action is commenced." *Parker v. S. Farm Bureau Cas. Ins. Co.*, 935 S.W.2d 556, 562 (Ark. 1996) (emphasis added). This means "[t]he subsequent occurrence of a material fact cannot" impact a bad faith claim. *Id.*; *see also Marathon Ashland Pipe Line LLC v. Md. Cas. Co.*, 243 F.3d 1232, 1246 (10th Cir. 2001) ("[E]ven if an insurer subsequently pays the claim in full, that does not extinguish the insured's bad faith tort claim."). So USAA's decision to pay Falasco the difference between CCC's and Sotheby's estimates in December 2023 does nothing to undercut his bad faith claim because he sued in September 2023.

Since neither basis the district court gave for its decision holds up, I would remand for the district court to consider the parties' other summary judgment arguments in the first instance. *See Loftness Spec. Farm Equip., Inc. v. Twiestmeyer*, 742 F.3d 845, 851 (8th Cir. 2014) ("When it would be beneficial for the district court to consider an alternative argument in the first instance, we may remand the matter to the district court."). That said, I realize "we have discretion to affirm despite th[e district court's] error *if* the record provides an alternate basis for doing so." *George K. Baum & Co. v. Twin City Fire Ins. Co.*, 760 F.3d 795, 800 (8th Cir. 2014) (emphasis added). But this is where the majority and I disagree.

"The question of whether an insurer acted in bad faith is determined under a 'totality of the circumstances' standard." *E.g.*, *Martin v. Allstate Prop. & Cas. Ins. Co.*, 794 F. App'x 883, 887 (11th Cir. 2019) (quoting *Harvey v. GEICO Gen. Ins. Co.*, 259 So. 3d 1, 7 (Fla. 2018)). But here, rather than considering whether Falasco's evidence, taken together, could support a finding of bad faith, the majority lists the alleged instances of bad faith — no less than eight of them — and excuses them one by one as "negligence, gross ignorance, or honest error of judgment." *Ante* p. 11 (cleaned up); *see also ante* pp. 7–17. This approach is reminiscent of the "divide-and-conquer" approach to assessing probable cause, which we have consistently rejected under the same totality of the circumstances standard. *See, e.g.*, *Galanakis v. City of Newton*, 134 F.4th 998, 1004 (8th Cir. 2025) (quoting *District of Columbia v. Wesby*, 583 U.S. 48, 61 (2018)). If we could nickel and dime Falasco's evidence — or if it only showed USAA made a few isolated mistakes handling his claim — I too would hold my nose and chalk this case up to gross ignorance. But as is often the case, "[t]he whole here is greater than the sum of its parts." *Wilkie v. Robbins*, 551 U.S. 537, 555 (2007).

Viewed holistically, Falasco's evidence paints a troubling picture for three main reasons. First, it suggests USAA lied to him almost every time he spoke with it. *See ante* pp. 2–5, 11–12. "The [Arkansas S]upreme [C]ourt has found bad faith where an insurance agent lied to the insured . . . ." *E.g.*, *Watkins*, 370 S.W.3d at 856. The majority acknowledges five instances where USAA lied to Falasco in its decision, *ante* pp. 11–15, and there are others. But the majority recasts these lies as "honest mistake[s]" and concludes they were not "motivated by ill will . . . ." *Ante* pp. 12–13. In my view, this is inappropriate. "[T]his case comes here on [USAA]'s motion for summary judgment," so we are supposed to "view the facts in the light most favorable to the nonmoving party, [Falasco]," not the other way around. *Zorn v. Linton*, 146 S. Ct. 926, 929 n.1 (2026). And "the question of a defendant's intent or state of mind is for the trier of fact to decide, based upon the evidence presented." *McKnight v. State*, 378 S.W.3d 173, 178 (Ark. Ct. App. 2010) (quoting *Edwards v. State*, 377 S.W.3d 271, 275 (Ark. Ct. App. 2010)).

Second, Falasco's evidence suggests USAA told Falasco, an attorney, who is subject to potential disbarment for illegal activity, that it was investigating him for arson and fraud to stiff arm him into accepting a lower settlement, when it was really just conducting an ordinary origin and cause investigation. *See ante* pp. 9–11. This kind of "aggressive, abusive, and coercive conduct by a claims representative" can support a bad faith claim. *Unum*, 210 S.W.3d at 88 (quoting *State Auto Prop. & Cas. Ins. Co. v. Swaim*, 991 S.W.2d 555, 561 (Ark. 1999)); *see also Vanguard Ins. Co. v. Havadjia*, 886 F.2d 1321 (9th Cir. 1989) (unpublished table decision) ("We know of no cases where a bad faith claim was based . . . on the fact that the insurer tried to scare the insured into foregoing his claim by unjustly accusing [him] of arson . . . . However, it seems clear that such conduct is at a minimum 'unreasonable' and thus constitutes a breach of the implied covenant of good faith and fair dealing."). The majority again takes this evidence in the light most favorable to USAA, suggesting it merely shows USAA conducted a "reasonable" and "thorough" investigation, as was its right under Falasco's policy. *Ante* p. 10. But whether "the claim agent's statement intended to put some type of pressure upon its insured to settle the claim" is "a fact issue," so a jury should decide it. *Aetna*, 664 S.W.2d at 466.

And third, Falasco's evidence suggests USAA stood by its initial lowball estimate for far longer than was reasonable. *See ante* pp. 7–8. True, "[t]he mere failure to investigate a claim is not the sort of affirmative misconduct that gives rise to a cause of action in tort for bad faith." *Reynolds v. Shelter Mut. Ins. Co.*, 852 S.W.2d 799, 801 (Ark. 1993). But this does not give insurers license to ignore insureds' evidence. Rather, an insurer's "dogged insistence" on a position it should know is wrong is "tangible evidence of bad faith . . . ." *Parker*, 935 S.W.2d at 562. Here, after receiving USAA's approximately $46,000 estimate for his 1974 Porsche

911S, Falasco immediately notified it that CCC had based the estimate on two comparable vehicles or "comps" that "d[id] not even approximate [his] car," a 1973 Porsche 911T and a 1976 Porsche 911S Targa. Even though minor differences in antique, collectable cars, like Porsche 911s, can cause their values to swing wildly, I agree with the majority that USAA's use of these comps, while perhaps unfair to Falasco, did not initially amount to bad faith. After all, USAA "invited him to submit additional comparable vehicles," *ante* p. 8, and "property appraisement is not an exact science." *Ante* p. 7 (quoting *Muswick*, 329 S.W.2d at 176). But the problems with CCC's estimate do not end here.

As Falasco informed USAA, the ad for one of the two comps it relied on, which already poorly approximated his Porsche, states that "***the engine does not run***." It goes without saying that this nonrunning Porsche did not fairly approximate Falasco's. *See Betts v. USAA Gen. Indem. Co.*, 606 S.W.3d 616, 619 (Ark. Ct. App. 2020) (noting a "comparable vehicle" under USAA's auto policy "is one of the same make, model, model year, body type, and options ***with substantially similar*** mileage and ***physical condition***" (emphasis added)). Despite this, USAA has continued relying on CCC's estimate, even noting in its brief that its "reliance on CCC was . . . unquestionably reasonable . . . ."

Additionally, when Falasco submitted information regarding two 1974 Porsche 911Ss that had recently sold for $113,000 and $145,000, respectively, on Bring a Trailer, USAA flatly refused to consider it. Falasco repeatedly asked USAA why it would not consider sales of comparable vehicles on Bring a Trailer, but all USAA ever said is that "Comp 1 and Comp 2 are from Bring [a] Trailer which they can not [*sic*] consider apart of [*sic*] the evaluation . . . ." The insurer "has the duty to reasonably investigate a claim . . . ." *State Farm Fire & Cas. Co. v. Simmons*, 963 S.W.2d 42, 47 (Tex. 1998). And "[t]he value of a thing *is* what people will pay" for it. *Malik v. Falcon Holdings, LLC*, 675 F.3d 646, 648 (7th Cir. 2012). So USAA was wrong to ignore Falasco's evidence showing cars like his had recently sold for more than double its estimate. *See Shade Foods, Inc. v. Innovative Prods. Sales & Mktg., Inc.*, 93 Cal. Rptr. 2d 364, 387 (Ct. App. 2000) (noting that an insurer "acts unreasonably towards its insured and breaches the covenant of good faith and fair dealing" when it "ignore[s] evidence which supports coverage" (cleaned up)). Because USAA tried to have its cake and eat it too — doggedly relying on an estimate premised on a nonrunning, dissimilar vehicle, while simultaneously doggedly refusing to consider Falasco's evidence — a jury could reasonably conclude it acted in bad faith.[5]

To be sure, Falasco does not have "smoking gun" evidence outright proving USAA acted maliciously, but this is typical. Insurers generally don't note that they are acting maliciously in their claim files. This is why "[m]alice may be inferred from conduct and surrounding circumstances." *First Marine Ins. Co. v. Booth*, 876 S.W.2d 255, 257 (Ark. 1994). And why, "generally speaking, the question whether a party has acted in good faith . . . is a matter of fact to be determined by the jury." *Adams v. First State Bank*, 778 S.W.2d 611, 614 (Ark. 1989); *accord Allen v. Bryers*, 512 S.W.3d 17, 39 (Mo. 2016) ("Whether an insurer acted in bad faith is . . . generally a fact question for the jury.").

In my view, Falasco put forward evidence from which a jury could infer USAA acted maliciously and, thereby, committed bad faith. *See United States ex rel. Bookwalter v. UPMC*, 946 F.3d 162, 166 (3d Cir. 2019) ("All these facts are smoke; and where there is smoke, there might be fire."). He was therefore entitled to have a jury weigh the evidence and decide whether to believe his or USAA's version of events. *See Bosley v. Cargill Meat Sols. Corp.*, 705 F.3d 777, 779 (8th Cir. 2013). The majority short circuits this, so I respectfully dissent.

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[5]The three examples I highlight here are not exhaustive. Falasco's evidence also suggests USAA may have "intentionally altered insurance records," *Swaim*, 991 S.W.2d at 561, and that it refused to return his car when he requested it do so "to place [him] under pressure to settle," *Viking*, 836 S.W.2d at 377. And this only further supports Falasco's claim.