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Deciphering "Good Faith" for Insurers Defending Coblentz Agreements in Florida, Insurance Journal

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Since the 1969 seminal case of Coblentz v. Am Surety Co. out of the Fifth Circuit Court of Appeals that found an insurer that breaches its duty to defend must pay the amount of damages stipulated to between the claimant and insured unless there is "fraud or collusion," courts have mandated that an enforceable Coblentz agreement must be reasonable in amount and entered in "good faith."

However, there is no comprehensive definition of "good faith" in Florida as stated in the 2006 case of Chomat v. N. Ins. Co. Therefore, the full extent of the meaning of "good faith" remains unresolved as courts analyze varying degrees of conduct that amount to a showing of "good faith" – or lack thereof.

The Eleventh Circuit has provided the most comprehensive definition of "good faith" in the 2016 case of Jimenez v. Gov't Employees Ins. Comp. where it required that an enforceable Coblentz agreement must be free from: bad faith; fraud; collusion; and entered with efforts to minimize liability

Nonetheless, recent court decisions like Beaubrun v. GEICO Gen. Ins. Co. out of the Southern District of Florida create more ambiguity than clarity around the meaning of "good faith." This leaves practitioners and insurers to question what type of evidence suffices to demonstrate that a Coblentz Agreement should not be enforced for lack of "good faith."

While practitioners often disagree about who carries the burden of proof in these cases, the courts unequivocally confirm that the party seeking to recover under a Coblentz Agreement must prove that it was entered into in "good faith."

The Beaubrun decision was entered in the context of an order on an insurer's motion for summary judgment—meaning, a request by the insurer for the court to rule that the Coblentz agreement was unenforceable as a matter of law. The claimant brought a wrongful death action as the personal representative of the decedent who was involved in a car accident with the insured, in which they both died. The claimant also filed under oath a statement of claim in the deceased-insured's probate action, liquidating the value of the wrongful death action to $1 million. Ultimately, the claimant and the administrator ad LItem for the deceased-insured's estate entered a Coblentzagreement for a quadrupled amount of $4 million.