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Injured worker's claim for bad faith denial of workers' comp benefits is untimely

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The Fifth U.S. Circuit Court of Appeals ruled the applicable statute of limitations barred an injured worker's claim for bad faith denial of workers' compensation benefits.

Teresa Patrick sought workers' compensation benefits from her employer's insurance carrier, National Union Fire Insurance Co., after she suffered a lower-back injury on July 28, 1997. In a Sept. 14, 1999 order, an administrative law judge (ALJ) held that Patrick had sustained a compensable injury and was entitled to temporary total disability benefits of \$187 per week beginning July 8, 1998, and continuing until June 9, 1999. The ALJ ordered that a determination about permanent occupational disability or loss of wage-earning capacity, if any, would be reserved until a later time.

After 1999, Patrick worked at other jobs, suffered additional injuries, and at some point filed a claim for additional benefits. Another ALJ found that Patrick was totally and permanently disabled and ordered payment of \$187 per week for 450 weeks. The workers' compensation commission and the trial court affirmed. The supreme court denied Patrick's petition for writ of certiorari on Apr. 9, 2009, and the appeals court's mandate issued 21 days later.

On July 9, 2010, Patrick filed a complaint against her employer and National Union alleging bad faith refusal to pay benefits in 1999. The defendants moved to dismiss. They argued Patrick's suit had accrued 20 days after the first ALJ's 1999 order and was barred by Mississippi's three-year statute of limitations.

Patrick argued the statute of limitations did not commence until the appeals court's 2009 mandate. She obtained leave to file a second amended complaint alleging the defendants "refused and continue to refuse" payment "both before and after [the] September 14, 1999 Order." The district court granted motions to dismiss. It concluded Patrick's allegations relating to the initial denial of temporary benefits were barred by the statute of limitations. The court also held the amendments to Patrick's complaint that charged continuing bad faith after the 1999 order failed to satisfy the plausibility requirement for pleadings. Patrick appealed.

The Fifth Circuit affirmed the district court's judgment. Patrick's original claim was barred by Mississippi's three-year statute of limitations. Her new allegations as to a continuing violation and other instances of bad faith did not state a claim.

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