

DISTRICT COURT, DENVER COUNTY, COLORADO Court Address: Denver City & County Building 1437 Bannock Street Denver, CO 80202		DATE FILED: August 10, 2022 1:05 PM FILING ID: 43A0696DE3601 CASE NUMBER: 2022CV32303
Plaintiff: Ella Coney v. Defendant: State Farm Mutual Automobile Insurance Company		▲ COURT USE ONLY ▲
Law Offices of Natacha M. Gutierrez, LLC Natacha M. Hutchinson Gutierrez 695 S. Colorado Blvd, Suite 480 Denver, CO 80246 Phone Number: 303-900-3281 E-mail: Natacha@nmgutierrezlaw.com FAX Number: 866-632-9151 Atty. Reg. #: 43240		
		Case No.: Division: Courtroom:
COMPLAINT		

COMES NOW Plaintiff, Ella Coney, by and through her attorneys, Law Offices of Natacha M. Gutierrez, LLC and Natacha M. Hutchinson Gutierrez for her Complaint against the Defendant, states and alleges as follows:

I. PARTIES, JURISDICTION, AND VENUE

1. Plaintiff Ella Coney ("Ms. Coney") is an individual and resident of the State of Colorado.
2. Defendant State Farm Mutual Automobile Insurance Company ("Defendant State Farm Insurance") is a company with a registered agent in and regularly conducts business activities in the State of Colorado.
3. Jurisdiction is proper in this action pursuant to C.R.S. § 13-1-124, as the incident underlying this cause of action occurred within Denver County, State of Colorado.
4. Venue is proper in this action pursuant to C.R.C.P. § 98(c)(5), as the incident underlying this cause of action occurred within Denver County, State of Colorado.

II. GENERAL ALLEGATIONS

5. The collision occurred on or about April 19, 2017 at approximately 11:00 a.m.
6. Daniel Hage failed to stop for traffic and crashed in to Ms. Coney causing damage to Ms. Coney's car and causing her bodily injury.
7. Mr. Hage possessed liability insurance coverage in the amount of \$125,000.
8. Policy limits were paid in 2020 after significant litigation against Mr. Hage.
9. Ms. Coney's medical bills for treatment related to the collision at the time she settled the claim with Mendota Insurance Company were approximately \$387,898.
10. Ms. Coney also had approximately \$300,000 in lost wages.
11. Mr. Hage was underinsured for purposes of covering Plaintiff's injuries, damages, and losses.
12. Ms. Coney's current medical bills for treatment and lost wages related to the collision exceed the amount of the policy limits of Mr. Hage's liability coverage.
13. Ms. Coney possesses underinsured motorist insurance coverage which was purchased from Defendant State Farm Insurance prior to the subject motor vehicle collision.
14. Ms. Coney's underinsured motorist insurance policy coverage limits are \$300,000 per person.
15. Ms. Coney also had a medpay policy with State Farm for \$30,000 that was exhausted.
16. Beginning in 2020, Ms. Coney began providing State Farm with documentation to support her claim for her policy limits with State Farm.
17. On or about October 18, 2021, Defendant State Farm Insurance stated in a letter conversation that no benefits were owed at that time to Ms. Coney.
18. On or about January 5, 2022, Plaintiff, through her attorney, advised that Ms. Coney's claim had been unreasonably denied under Colorado law.

19. On January 6, 2022, the Defendant again denied Ms. Coney's claims.

20. Defendant State Farm Insurance, as of the date of filing this Complaint, has sent Ms. Coney advance payments for medical bills totaling zero dollars.

21. Defendant State Farm Insurance's total offer for underinsured motorist benefits for both economic and non-economic damages, as of the date of the filing of this Complaint, is zero dollars.

**III. FIRST CLAIM FOR RELIEF
(BREACH OF CONTRACT)**

22. Plaintiff incorporates all prior allegations as though fully set forth herein.

23. Sometime prior to the collision, Ms. Coney entered into a contract with Defendant State Farm Insurance for the purpose of obtaining automobile insurance, which policy includes coverage for claims involving underinsured motorists.

24. State Farm had a duty to perform in a manner set forth in the policy.

25. State Farm breached its duty to perform under the policy as more fully described above.

26. At all times pertinent to the within action, all the premiums as required under the contract for insurance were timely paid to Defendant State Farm Insurance.

27. Ms. Coney has fulfilled all of her obligations under the policy issued by State Farm.

28. Ms. Coney has fully cooperated with State Farm with regard to her claim for benefits.

29. Ms. Coney advised Defendant State Farm Insurance of a claim for underinsured motorist benefits for this incident under its policy of insurance, and otherwise fully cooperated with Defendant State Farm Insurance in connection with the claim.

30. Ms. Coney is an intended beneficiary of Defendant State Farm Insurance's insurance policy/contract and is therefore entitled to enforce its terms.

31. As the holder of an under-insured motorist insurance policy, Ms. Coney is entitled to be compensated by Defendant State Farm Insurance for all damages she has incurred in excess of the underlying limits as a result of the collision, including past and present medical expenses, pain, suffering, loss of enjoyment of life, loss of earnings and earning capacity, permanency and/or impairment, and disability, under the under-insured motorist coverage of the policy.

32. As a direct result of Defendant State Farm Insurance's breaches of its duties to its insured, Ms. Coney has been damaged including, but not necessarily limited to:

- a. Being forced to incur additional costs in litigation; and,
- b. Enduring the emotional trauma of being unnecessarily involved in a lawsuit with defendant.

IV. SECOND CLAIM FOR RELIEF
(FIRST PARTY STATUTORY CLAIM
UNDER C.R.S. § 10-3-1116)

33. Plaintiff incorporates all prior allegations as though fully set forth herein.

34. Defendant State Farm Insurance has denied and delayed payment of underinsured motorist benefits to Ms. Coney without a reasonable basis for its action.

35. Defendant State Farm Insurance's unreasonable position and conduct has caused Ms. Coney damage by the loss of the compensation that is due to her and which Defendant should have previously paid to her.

36. In accordance with C.R.S. § 10-3-1116, Ms. Coney is entitled to recover from Defendant State Farm Insurance two times the covered under-insured motorist benefits, plus reasonable attorney's fees and court costs.

37. As a direct and proximate result of the conduct of Defendant, Ms. Coney has suffered injuries and damages more fully described above.

**V. THIRD CLAIM FOR RELIEF
(BAD FAITH)**

38. Plaintiff incorporates all prior allegations as though fully set forth herein.

39. Defendant State Farm Insurance owed Ms. Coney a duty to act in good faith in investigating, reviewing, adjusting, and settling her claims.

40. Defendant State Farm Insurance breached its duties to its insured, and acted in bad faith, through its conduct as described above and by engaging in the following, among other acts:

- a. Compelling Ms. Coney to institute litigation to recover amounts due to her under the underinsured motorist bodily injury liability benefits afforded Ms. Coney under the insurance policy including, but not limited to, amounts recoverable for future treatment Ms. Coney needs;
- b. Favoring the interests of Defendant State Farm Insurance, an insurer, over those of Ms. Coney, an insured, to whom Defendant State Farm Insurance owes fiduciary and statutory duties;
- c. Failing or delaying payment of reasonable compensation for the injuries, damages, and losses Ms. Coney suffered at the hands of an underinsured motorist including, but not limited to losses related to Ms. Coney's need for additional care; and,
- d. Incompetently evaluating Ms. Coney's claim.
- e. Failing to respond to Ms. Coney's reasonable questions about the basis of State Farm's offer.

41. Defendant State Farm Insurance's actions are unreasonable.

42. Defendant State Farm Insurance knew its conduct was unreasonable or disregarded the fact that its conduct was unreasonable.

43. As a direct result of Defendant's breaches of its duties to its insured, Ms. Coney has been damaged including, but not necessarily limited to:

- a. Being forced to incur additional costs in litigation;
- b. Enduring the emotional trauma of being unnecessarily involved in a lawsuit with Defendant; and,

WHEREFORE, Plaintiff Ms. Coney prays for judgment against Defendant State Farm Insurance for all general damages, economic damages, all statutory and necessary costs including, but not limited to, expert witness fees and the expenses incurred in investigation and discovery required to present Plaintiff's claims, attorney fees and interest from the time of the occurrence, post-judgment interest at the requisite rate, and for such other and further relief as this Court shall deem proper, just, and appropriate under the circumstances.

**THE PLAINTIFF RESPECTFULLY REQUESTS TRIAL BY JURY, ON ALL ISSUES
SO TRIABLE.**

Respectfully submitted August 9, 2022.

Law Offices of Natacha M. Gutierrez, LLC

s/Natacha M. Hutchinson Gutierrez

Natacha M. Hutchinson Gutierrez
Atty. Reg. #: 43240

Plaintiff's Address:
Ella Coney
2290 Eudora St.
Denver, Colorado 80207

In accordance with C.R.C.P. 121, §1-26(9), a printed copy of the document with original signatures is being maintained by the filing party and will be made available for inspection by other parties or the Court upon request.