

BEFORE ALLEN L. MCVEY, INSURANCE COMMISSIONER  
OF THE STATE OF WEST VIRGINIA

**RYAN WOLVERTON,**

Complainant,

v.

Administrative Proceeding No. 22-IC-02012

**GEICO CHOICE INSURANCE COMPANIES,**

Respondent.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
ORDER DENYING REQUEST FOR A HEARING

This matter came before the Insurance Commissioner of West Virginia (hereinafter, “Commissioner”), on Complainant Ryan Wolverson’s (hereinafter, “Complainant”) request for a hearing on his third-party administrative complaint filed against GEICO Choice Insurance Companies, (hereinafter, “Respondent”). After consideration of Complainant’s hearing request, the undersigned Commissioner did proceed to make the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

1. Complainant was involved in a motor vehicle accident on August 2, 2022, with the driver of a vehicle insured by Respondent.
2. Complainant’s vehicle is a 2011 Hyundai Genesis coupe with 48,000 miles at the time of the motor vehicle accident. Complainant alleges the vehicle is “rare” and only made for a six-year production period.
3. On or about September 27, 2022, Complainant’s vehicle was inspected by Caliber Collision of Charles Town, West Virginia. Complainant’s vehicle was deemed a total loss by a valuation provided by CCC Intelligent Solutions, (hereinafter, “CCC”).

4. After unsuccessful attempts to contact Complainant, Respondent did contact Complainant on or about October 10, 2022, and offered Complainant Twelve Thousand Five Hundred Fifty-Seven Dollars (12,557.00) to settle the property damage claim for his vehicle. Respondent arrived at this amount based upon CCC. Complainant rejected the offer.

5. Complainant submitted three vehicles as comparable vehicles and requested the offer be raised to Twenty Thousand Dollars (20,000.00). The Auto Damage Supervisor for Respondent reviewed the vehicles submitted by Complainant. After making adjustments to compensate for the lower mileage on Complainant's vehicle, Respondent increased the value of Respondent's vehicle to Fifteen Thousand Eight Hundred Forth Dollars (15,840.50). Complainant rejected this offer.

6. Complainant submitted two additional vehicles for comparison. One vehicle was a 2015 Nissan 370z. Respondent did not consider this vehicle a fair comparison and did not consider it in determining the value of Complainant's vehicle.

7. Complainant additionally submitted a quote from a dealership that listed the value of Complainant's vehicle as Nineteen Thousand Nine Hundred Ninety-Five Dollars (19,995.00).

8. The auto damage manager for Respondent requested CCC review the vehicles that were submitted by Complainant for comparable valuation. The Nissan was not considered. CCC determined that the original offer to Complainant was the proper value, which was less than the offer of Fifteen Thousand Eight Hundred Forty Dollars and Fifty Cents (15,840.50) Respondent made to Complainant. Respondent again offered Fifteen Thousand Eight Hundred Forth Dollars and Fifty Cents (15,840.50). Complainant rejected this offer.

9. On or about October 27, 2022, Complainant filed a third-party administrative complaint with the West Virginia Offices of the Insurance Commissioner (hereinafter, "OIC").

10. On or about November 11, 2022, Respondent submitted a response to Complainant's complaint stating the valuation was fair and reasonable, and stood by their offer of Fifteen Thousand Eight Hundred Forth Dollars and Fifty Cents (15,840.50).

11. On or about February 7, 2023, the OIC sent Complainant a "no merit" letter, stating their investigation into his complaint did not uncover any violations of the state of West Virginia insurance laws or regulations.

12. On or about February 19, 2023, Complainant filed his request for a hearing with the Commissioner upon the merits of his third-party administrative complaint.

#### CONCLUSIONS OF LAW

1. Regarding third-party complaints, the Commissioner does not have the general authority to adjudicate the merits of an underlying claim involving a good faith dispute over liability pursuant to W.Va. Code §§33-11-4a. The Commissioner is tasked with resolving third-party complaints regarding unfair claims settlement practices against an insurance company. However, W.Va. §§33-11-4a. does not give the Commissioner the authority to order an insurance company to pay a third-party claimant's underlying damages.

2. A disagreement regarding liability or value for an underlying claim does not alone signal an unfair claims settlement practice. "So long as the insurer acts in good faith, the insurer is not held to standards of omniscience or perfection; it has leeway to use and should consistently employ its honest business judgment." *Jackson v. State Farm Mut. Auto. Ins. Co.*, 215 W.Va. 634, 600 SE2d 346 (2004), quoting *Peckham v. Continental Cas. Ins. Co.*, 895 F2d 830, 835 (1<sup>st</sup> Cir. 1990). Respondent simply must show that its investigation was done in good faith given its own knowledge at the time of the relevant facts and claim concerning the underlying claim. See

*Jackson supra*, at 642, quoting *Bolden v. O'Connor Café of Worchester, Inc.*, 50 Mass App 577; 34 N.E.2d 726 (2000).

3. Moreover, W.Va. Code § 33-11-4a(g) states that “a good faith disagreement over the values of a claim or the liability of any party to an action is not an unfair claims settlement practice.”

4. The CCC used by Respondent is an “official used car guide” as defined in WVCSR 114-14-7.2.d.

5. Complainant disagrees with Respondent regarding the value it arrived at for his vehicle. Respondent used an official car guide approved by the Commissioner, and considered other comparable vehicles offered by Complainant in arriving at their final offer. The dispute between the parties is one of good faith.

6. W. Va. Code §33-2-13 states, in pertinent part, “the commissioner may call and hold hearings for any purpose deemed necessary by him for the performance of his duties.” Further, W.Va. Code R. § 114-13-3.3 states:

3.3 Hearing on written demand ~ When the commissioner is presented with a demand for a hearing as described in subsections 3.1 and 3.2 of this section, he or she shall conduct a hearing within forty-five (45) days of receipt by him or her of such written demand, unless postponed to a later date by mutual agreement. However, if the commissioner shall determine that the hearing demanded:

a. Would involve an exercise of authority in excess of that available to him or her under the law; or

b. Would serve no useful purpose, the commissioner shall, within forty-five (45) days of receipt of such demand, enter an order refusing to grant the hearing as requested, incorporating therein his or her reasons for such refusal. Appeal may be taken from such order as provided in W.Va. Code §33-2-14.

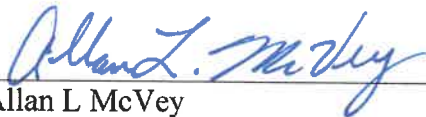
7. W.Va. Code §33-2-13 and W.Va. R §114-1-3.3 afford the Commissioner discretion in deciding whether a hearing would serve a useful purpose. Holding a hearing in this matter would

involve an exercise of authority in excess of that available to the Commissioner under the law in that it would be asking him to adjudicate a good faith dispute regarding the Complainant's underlying claim. This matter was properly closed pursuant to W.Va. Code § 33-1 1-4a(g), and a hearing on the matter would serve no useful purpose.

ORDER

Wherefore, since a hearing in this matter would serve no useful purpose and would involve an exercise of authority in excess of that available to the Commissioner under the law, it is **ORDERED** that the Complainant's request for a hearing is **DENIED**. Pursuant to W.Va. Code §33-2-14, the Complainant has the right to appeal this Order of the Insurance Commissioner to the Circuit Court of Kanawha County within 30 days of receipt.

**ENTERED** this the 1<sup>ST</sup> day of March, 2023.

  
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Allan L McVey  
CPCU, ARM, AAI, AAM, AIS  
Commissioner of Insurance