

**BEFORE ALLAN L. MCVEY INSURANCE COMMISSIONER
OF THE STATE OF WEST VIRGINIA**

ETHAN HAYNES,

Complainant,

v.

ADMINISTRATIVE PROCEEDING NO.: 25-IC-182630

ERIE INSURANCE COMPANY,

Respondent.

FINAL ORDER

The undersigned, Insurance Commissioner of the State of West Virginia, does hereby adopts and approves the Recommended Decision of the Hearing Examiner, appended hereto, as well as the findings of fact and conclusions of law therein contained. The Complainant failed to prove that the Respondent violated West Virginia Code § 33-11-4(9)(c) and West Virginia Code of State Rules § 114-14-6.2.

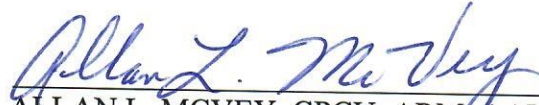
Therefore, the Complainant's complaint is denied.

THEREFORE, it is **HEREBY ORDERED** that the Complaint by Ethan Haynes is dismissed.

The objections of any party aggrieved by this Order and to the Recommended Decision herein adopted are preserved.

The Commissioner's final orders are subject to judicial review in the Intermediate Court of Appeals as set forth in W.Va. Code § 51-11-4(b)(4). Any person aggrieved by this Order may, **within 30 days of the entry of the judgment being appealed,** file an appeal as set forth in W.Va. Code § 33-2-14 and Rule 5(b) of the West Virginia Rules of Appellate Procedure.

ENTERED this 11th day of February, 2026.



ALLAN L. MCVEY, CPCU, ARM, AAI, AAM, AIS.
INSURANCE COMMISSIONER

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**RECOMMENDED DECISION
OF THE HEARING EXAMINER**

On January 12, 2026, a hearing was held before Hearing Examiner Mark W. Carbone, Esquire, at the West Virginia Offices of the Insurance Commissioner, Charleston, West Virginia. Ethan Haynes (hereinafter "Complainant"), appeared pro se. Jill Lansden, Esquire, and Robert Stewart made appearances on behalf of Erie Insurance Company (hereinafter "Respondent"). Following the hearing, the matter was deemed submitted for recommended decision.

Based upon a thorough review of the entire record in this case, the undersigned now makes the following Findings of Fact and Conclusions of Law.

Findings of Fact

1. On April 25, 2025, the Complainant left his home to go to work between 3:15 and 3:25 p.m. While traveling down Woodrum Lane in Charleston, West Virginia, the Complainant collided with a car driven by Laura Schuda. (Tr. P. 5, 11)
2. According to the testimony of the Complainant he was coming around a curve and saw the vehicle driven by Ms. Schuda right in front of his vehicle. The Complainant jammed on

his brakes and turned his wheel to the right to avoid a collision. He then struck her vehicle and his truck landed in a ditch. (Tr. P. 5)

3. The Kanawha County Sheriff's Department came to the scene. An accident report was prepared. No one introduced the accident report into evidence but based on the testimony at the hearing the report indicated that Ms. Schuda was at fault. (Tr. P, 6, 33)

4. Mr. Robert Stewart, claims supervisor for the Respondent, has over 12 years of adjusting property claims. Prior to working in the Insurance field, he was a deputy sheriff in Ritchie County, West Virginia. (Tr. P. 13-14)

5. After receiving the first notice of the accident, the Respondent attempted to contact Ms. Schuda. The did not talk to Ms. Schuda until April 28, 2025.

6. Ms. Schuda told the Respondent that she was crossing a bridge up an incline when the Complainant's vehicle came around a curve from the opposite direction. It was her contention that the Complainant was traveling too fast and was unable to stop. Ms. Schuda claimed that her vehicle was as far over in her lane as possible. (Tr. P. 22: Ex. 1)

7. The Respondent was unaware of any third-party claim information until it received the police report on April 9, 2025. (Tr. P. 20: Ex. 1)

8. On May 2,2025, the Respondent received a phone call from the Respondent and was informed that since he was still in high school, they had his permission to talk to his father about the accident.

9. The father of the Complainant provided the Respondent pictures of the accident scene. Mr. Stewart used these pictures to determine that the Complainant was liable for the accident. (Tr. P. 25, 27:Ex. 2)

10. Based on the photographs, Mr. Stewart looked at the location of the debris field and determined that the accident occurred on Ms. Schuda's side of the road. In addition, the point of impact was not a front-end collision but was at the driver's side door. Mr. Stewart concluded that if Ms. Schuda had been on the Complainant's side of the road there would have been a head on collision. (Tr. P. 25: Ex. 2)

11. Mr. Stewart went on to testify that, based on the relative position of the vehicles after the accident, it indicated that the Complainant was traveling at a much higher rate of speed than Ms. Schuda. Ms. Schuda's vehicle ended up twelve to fifteen feet from the impact point while the Complainant's vehicle traveled fifty to one hundred feet across a ditch and onto the hillside from the impact point. (Tr. P. 25-26: Ex. 2)

12. The Respondent attempted to obtain a statement from the Complainant, but he failed to call the Respondent back. The Respondent was able to obtain the statement the Complainant gave to his own insurance, Allstate. In that statement, the Complainant said that Ms. Schuda was on his side of the road because she was trying to avoid potholes. According to the photographs all the potholes were on the Complainant's side of the road, giving credence that the Complainant was on the wrong side of the center line. (Tr. P. 27: Ex. 2)

13. There was a witness listed on the police report and the Respondent attempted on two occasions to contact the witness and left message but there was no call back. On the third attempt to contact the witness the person answering the phone stated that they had the wrong number. (T. P. 27)

14. The Complainant testified that he had difficulty getting return calls from the Respondent. The accident occurred on April 25, 2025, and the denial letter was issued on May 7, 2025. (Tr. P. 5, 29: Ex. 3)

15. The Complainant's insurance company, Allstate, determined that Ms. Schuda had been liable for the accident. (Tr. P. 36)

14. The final verbal contact between the Respondent and the Complainant's father was on May 14, 2025 wherein the Respondent explained the basis of the denial. (Tr. P. 30)

15. The Respondent did send the Complainant a mitigation letter on May 19, 2025. The purpose of the mitigation letter was in case the Complainant decided to litigate liability.

Issue

Whether the Respondent violated West Virginia Code § 33-11-4(9)(c) and/or West Virginia Code of State Rules § 114-14-6.2. If so, what is the remedy?

Burden of Proof

The Complainant has the burden of proof to prove, by a preponderance of the evidence, that the Respondent violated the insurance laws of the State of West Virginia.

Jurisdiction

The West Virginia Office of the Insurance Commissioner has jurisdiction over this matter under West Virginia Code § 33-2-3.

Analysis

The West Virginia Office of the Insurance Commissioner identified two potential violations in the Merit Letter it issued. The first potential violation is West Virginia Code § 33-11-4(9)(c).

Unfair claim settlement practices. -- No person shall commit or perform with such frequency as to indicate a general business practice any of the following:

(c) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

West Virginia Code § 33-11-4(9)(c) is further defined in West Virginia Code of State Rules § 114-14-6.2 which states as follows.

§114-14-6. Standards For Prompt Investigations And Fair And Equitable Settlements Applicable To All Insurers.

6.2. Establishment of investigatory procedures. --

a. Every insurer shall establish procedures to commence an investigation of any claim filed by a claimant, or by a claimant's authorized representative, within fifteen (15) working days of receipt of notice of claim.

b. Every insurer shall provide to every first-party claimant, or to the claimant's authorized representative, a notification of all items, statements and forms, if any, which the insurer reasonably believes will be required of such claimant, within fifteen (15) working days of receiving notice of the claim.

c. A claim filed with an agent of an insurer shall be deemed to have been filed with the insurer unless, consistent with law or contract, such agent promptly provides written notification to the person filing the claim that the agent is not authorized to receive notices of claim.

The issue is whether the Respondent has established proper procedures to investigate the Complainant's claim.

The Respondent was unaware of the name of the other person involved in the accident with its insured until it received the police report. According to the testimony of Mr. Stewart, the Respondent attempted to get a statement from the Complainant, but he did not respond to the Respondent's inquiry. The Respondent was able to get the statement that the Complainant gave to his own insurance company. So, the Respondent did have the Complainant's version of the accident.

The Respondent was able to get a statement from its insured, Ms. Schuda. According to that statement, the Complainant was traveling too fast and came over into her lane striking her vehicle.

The Respondent was able to get pictures of the accident scene from the father of the Complainant. According to Mr. Stewart, those pictures indicated that the Complainant was at fault.

The Respondent looked at several factors. The debris field indicated to Mr. Stewart that the accident took place on Ms. Schuda's side of the road. This belief was further strengthened by the fact that Ms. Schuda's car was struck on the driver's side of the car and was not a head on collision.

Another factor that the Respondent reviewed was the relative position of the vehicles after the accident. The Respondent testified that the Complainant was traveling at a much higher rate of speed than Ms. Schuda. The Respondent took this position because Ms. Schuda's vehicle rested twelve to fifteen feet from the point of the accident, while the Complainant's vehicle traveled fifty to one hundred feet across a ditch and onto the hillside from the impact point.

Finally, according to the statement that the Complainant gave Allstate, Ms. Schuda was on his side of the road to avoid potholes. The pictures of the accident indicated that the potholes were on the Complainant's side of the road.

While it appears that the investigation procedures by the Respondent were reasonable, there is still the issue of the police report, which found Ms. Schuda at fault. Mr. Stewart, a former Deputy Sheriff, stated that sometimes there are typos on police reports. The Respondent attempted to contact the Officer, who completed the report, to ask him why he found Ms. Schuda at fault. The Officer did not return the Respondent's call.

Taking a position the opposite of the police report is not fatal to the investigation quality. It is reasonable for the Respondent's conclusions to be a result of a quality investigation, even if it is contrary to the police report.

The investigatory procedures of the Respondent took into consideration the statements of both drivers, the evidence found at the scene of the accident and even tried to contact the only witness listed in the police report. While the investigation was not perfect it was sufficient to meet the requirements of West Virginia Code § 33-11-4(9)(c) and West Virginia Code of State Rules § 114-14-6.2.

Conclusions of Law

1. The West Virginia Offices of the Insurance Commission have jurisdiction over this matter by virtue of West Virginia Code Chapter § 33-2-3.
2. The Complainant has the burden of proof, by a preponderance of the evidence, to prove that the Respondent violated West Virginia Code § 33-11-4(9)(c) and/or West Virginia Code of State Rules § 114-14-6.2.
3. The Complainant failed to prove proved, by a preponderance of the evidence, that the Respondent violated West Virginia Code § 33-11-4(9)(c) and/or West Virginia Code of State Rules § 114-14-6.2. when it failed to prove that the Respondent failed to establish reasonable investigatory procedures.

RECOMMENDED DECISION

It is the recommendation of the Hearing Examiner that the Complainant failed to prove that the Respondent violated West Virginia Code § 33-11-4(9)(c) and/or West Virginia Code of State Rules § 114-14-6.2. Therefore, the complaints should be denied.

Respectfully recommended,


MARK W. CARBONE