STATE	CAUSE OF ACTION	RELEVANT LANGUAGE	DIS	LTC
Alabama	Common Law Tort (Gruenberg)	[T]he plaintiff in a 'bad faith refusal' case has the burden of proving: (a) an insurance contract between the parties and a breach thereof by the defendant; (b) an intentional refusal to pay the insured's claim; (c) the absence of any reasonably legitimate or arguable reason for that refusal (the absence of a debatable reason); (d) the insurer's actual knowledge of the absence of any legitimate or arguable reason; (e) if the intentional failure to determine the existence of a lawful basis is relied upon, the plaintiff must prove the insurer's intentional failure to determine whether there is a legitimate or arguable reason to refuse to pay the claim. *National Sec. Fire & Casualty Co. v. Bowen*, 417 So. 2d 179, 183 (Ala. 1982).	Yes	Yes
Alaska	Common Law Tort (Gruenberg)	We hold that, in the first-party context, an insured's cause of action against an insurer for breach of the duty of good faith and fair dealing sounds in tort. *State Farm Fire & Casualty Co. v. Nicholson*, 777 P.2d 1152, 1155-57 (Alaska 1989).	Yes	No case law
Arizona	Common Law Tort (Gruenberg?)	We recently clarified that tort recovery for bad faith is allowed if an insurer intentionally breaches the implied covenant of good faith and fair dealing in the insurance contract by denying the insured the security and protection from calamity that is the object of the insurance relationship. *Hawkins v. Allstate Ins. Co*., 152 Ariz. 490 (1987), judgment rev'd on other grounds, 30 F.3d 1077 (9th Cir. 1994), cert. denied.	Yes	No case law
Arkansas	Common Law Tort	We settled the issue when we concluded that in order to be successful a claim based on the tort of bad faith must include affirmative misconduct by the insurance company, without a good faith defense, and that the misconduct must be dishonest, malicious, or oppressive in an attempt to avoid its liability under an insurance policy. Such a claim cannot be based upon good faith denial, offers to compromise a claim or for other honest errors of judgment by the insurer. Neither can this type claim be based upon negligence or bad judgment so long as the insurer is acting in good faith.... [I]n an action of this type for tort, actual malice is that state of mind under which a person's conduct is characterized by hatred, ill will or a spirit of revenge. Actual malice may be inferred from conduct and surrounding circumstances. *Stevenson v. Union Standard Ins. Co*., 294 Ark. 651, 654, 746 S.W.2d 39, 41 (1988).	Yes	No case law

California	Common Law Tort (Gruenberg)	Defendants' duty, as we have explained, arises from a contractual relationship existing between the parties. This duty has been characterized as an ‘implied covenant’ that ‘neither party will do anything which will injure the right of the other to receive the benefits of the agreement.’ (*Comunale v. Traders & General Ins. Co*., supra, 50 Cal.2d 654, 658, 328 P.2d 198, 200.) While it might be argued that defendants would be excused from their contractual duties (e.g., obligation to indemnify) if plaintiff breached his obligations under the policies, we do not think that plaintiff's alleged breach excuses defendants from their duty, implied by law, of good faith and fair dealing. In other words, the insurer's duty is unconditional and independent of the performance of plaintiff's contractual obligations. Finally we take up defendants' contention that plaintiff may not recover for emotional distress, as a matter of law, because plaintiff failed to allege **conduct which is “extreme” and “outrageous.”** (See *Richardson v. Employers Liab. Assur. Corp., supra*, 25 Cal.App.3d 232, 241.) ***Gruenberg v. Aetna Ins. Co*., 9 Cal. 3d 566, 577 (1973).** **Language taken from Restatement Second of Torts § 46.**	Yes	Yes
Colorado	Common Law Tort (Anderson)	In light of these considerations of insurance generally, and of workers compensation in particular, we conclude that a claimant of compensation or benefits may bring an action in tort for bad faith by an insurer. We next consider the question of what standard of care is applicable to direct or first-party claims of bad faith conduct by an insurance carrier. Savio urges that the negligence standard adopted by this court in *Trimble* should be extended to direct coverage cases. Travelers contends the opposite: that in the context of first-party claims the tort of bad faith must include some component of intentional or willful conduct. We conclude that a workers compensation claimant who asserts that an insurer has failed to pay a claim in bad faith must establish that the insurer acted unreasonably and with knowledge of or reckless disregard for the fact that no reasonable basis existed for denying the claim. *Travelers Ins. Co. v. Savio*, 706 P.2d 1258, 1274 (Colo. 1985).	Yes	Yes
Connecticut	Common Law Tort (Gruenberg)	The Nevada Supreme Court adopted Gruenberg four square stating: “We approve and adopt the rule that allows recovery of consequential damages where there has been a showing of bad faith by the insurer. Where an insurer fails to deal fairly and in good faith with its insured by refusing without proper cause to compensate its insured for a loss covered by the policy such conduct may give rise to a cause of action in tort for breach of an implied covenant of good faith and	Yes	No case law

		fair dealing. The duty violated arises not from the terms of the insurance contract but is a duty imposed by law, the violation of which is a tort. *Silberg v. California Insurance Company,* 11 Cal.3d 452, 113 Cal.Rptr. 711, 521 P.2d 1103 (1974); *Gruenberg v. Aetna Insurance Company*, 9 Cal.3d 566, 108 Cal.Rptr. 480, 510 P.2d 1032 (1973); see also concurring opinion *Fisher v. Executive Fund Life Ins. Co*., 88 Nev. 704, 504 P.2d 700 (1972). The evidence bearing on the issue of consequential damages was properly admitted." This court likewise adopts the Gruenberg rule. *Grand Sheet Metal Products Co. v. Protection Mut. Ins. Co.*, 34 Conn. Supp. 46, 50-51 (Super. Ct. 1977).		
Delaware	Common Law Tort (Anderson)	I am satisfied that, given a proper set of circumstances, our courts would authorize recovery of punitive damages in egregious cases of wilful or malicious breach of contract. *McClain v. Faraone*, Del.Super., 369 A.2d 1090 (1977); *Guthridge v. Pen-Mod, Inc.*, Del.Super., 239 A.2d 709 (1967); *Nash v. Hoopes*, Del.Super., 332 A.2d 411 (1975). *Casson v. Nationwide Ins. Co*., 455 A.2d 361, 369 (Del. Super. Ct. 1982).	Yes	No case law
Florida	Fla Stat § 624.155	(1) Any person may bring a civil action against an insurer when such person is damaged: (b) By the commission of any of the following acts by the insurer: 1. Not attempting in good faith to settle claims when, under all the circumstances, it could and should have done so, had it acted fairly and honestly toward its insured and with due regard for her or his interests; 2. Making claims payments to insureds or beneficiaries not accompanied by a statement setting forth the coverage under which payments are being made; or 3. Except as to liability coverages, failing to promptly settle claims, when the obligation to settle a claim has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage. Notwithstanding the provisions of the above to the contrary, a person pursuing a remedy under this section need not prove that such act was committed or performed with such frequency as to indicate a general business practice.	Yes	Yes
Georgia	Ga. Code Ann., § 33-4-6	(a) In the event of a loss which is covered by a policy of insurance and the refusal of the insurer to pay the same within 60 days after a demand has been made by the holder of the policy and a finding has been made that such refusal was in bad faith, the insurer shall be liable to pay such holder, in addition to the loss, not more than 50 percent of the liability of the insurer for the loss or $5,000.00, whichever is greater, and all reasonable attorney's fees for the prosecution of the	Yes	Yes

		action against the insurer. The action for bad faith shall not be abated by payment after the 60 day period nor shall the testimony or opinion of an expert witness be the sole basis for a summary judgment or directed verdict on the issue of bad faith.		
Hawaii	Common Law Tort (Gruenberg)	We believe that the appropriate test to determine bad faith is the general standard set forth in *Gruenberg* and its progeny. Under the *Gruenberg* test, the insured need not show a conscious awareness of wrongdoing or unjustifiable conduct, nor an evil motive or intent to harm the insured. An unreasonable delay in payment of benefits will warrant recovery for compensatory damages under the *Gruenberg* test. *Best Place, Inc. v. Penn America Ins. Co.*, 82 Haw. 120, 133 (Haw. 1996), as amended, (June 21, 1996).	Yes	Yes
Idaho	Common Law Tort (Anderson)	The tort of bad faith breach of insurance contract, then, has its foundations in the common law covenant of good faith and fair dealing and is founded upon the unique relationship of the insurer and the insured, the adhesionary nature of the insurance contract including the potential for overreaching on the part of the insurer, and the unique, "non-commercial" aspect of the insurance contract. Accordingly, we hold that there exists a common law tort action, distinct from an action on the contract, for an insurer's bad faith in settling the first party claims of its insured. *White v. Unigard Mut. Ins. Co*., 112 Idaho 94, 96-98 (1986).	Yes	No case law
Illinois	No Bad Faith, Preempted by Ill.Rev.Stat.1 987, ch. 73, par. 767	Preempted by section 155 of the Insurance Code. Section 155 provides: "Attorney fees. (1) In any action by or against a company wherein there is in issue the liability of a company on a policy or policies of insurance or the amount of the loss payable thereunder, or for an unreasonable delay in settling a claim, and it appears to the court that such action or delay is vexatious and unreasonable, the court may allow as part of the taxable costs in the action reasonable attorney fees, other costs, plus an amount not to exceed any one of the following amounts: (a) 25% of the amount which the court or jury finds such party is entitled to recover against the company, exclusive of all costs; (b) $25,000; (c) the excess of the amount which the court or jury finds such party is entitled to recover, exclusive of costs, over the amount, if any, which the company offered to pay in settlement of the claim prior to the action." *Mazur v. Hunt*, 227 Ill. App. 3d 785, 788 (1992).	Yes	Yes

Indiana	Common Law Tort (Anderson)	The obligation of good faith and fair dealing with respect to the discharge of the insurer's contractual obligation includes the obligation to refrain from (1) making an unfounded refusal to pay policy proceeds; (2) causing an unfounded delay in making payment; (3) deceiving the insured; and (4) exercising any unfair advantage to pressure an insured into a settlement of his claim. Neither do we need to decide the precise nature and extent of damages recoverable in such an action. In tort, all damages directly traceable to the wrong and arising without an intervening agency are recoverable. *Erie Ins. Co. v. Hickman by Smith*, 622 N.E.2d 515, 519 (Ind. 1993).	Yes	Yes
Iowa	Common Law Tort (Anderson)	Despite our criticism in *Pirkl* of some of the rationale underlying the test employed by the Wisconsin Supreme Court in *Anderson*, we believe the test itself is sound. To show a claim for bad faith, a plaintiff must show the absence of a reasonable basis for denying benefits of the policy and defendant's knowledge or reckless disregard of the lack of a reasonable basis for denying the claim. *Anderson,* 85 Wis.2d at 691, 271 N.W.2d at 376. *Dolan v. Aid Ins. Co.*, 431 N.W.2d 790, 794 (Iowa 1988).	Yes	Yes
Kansas	None	The legislature has recognized the public interest nature of the insurance industry and has also recognized policy holders require protection because of their inequitable bargaining position. The penalties, including fines and imprisonment, and imposition of attorneys' fees are adequate to protect the public from the actions of a recalcitrant insurer in first party cases. We do not say the legislative remedy is exclusive but in the absence of a more definitive showing of inadequacy of the remedy than we have before us at this time, we hold the remedies are adequate to force compliance with the terms of insurance contracts. We are of the opinion the legislature has intended to provide a remedy for an insured who has problems with his insurance company. He can maintain an action on the contract for his policy benefits, with costs, interest and attorneys' fees under arbitrary circumstances. He may also report the company to the Department of Insurance under the Uniform Trade Practices Act for improper handling of claims pursuant to K.S.A. 40-2404(9). The company's actions are reviewable by the department and punishable if found improper. The legislature has provided several remedies for an aggrieved insured and has dealt with the question of good faith first party claims. *Spencer v. Aetna Life & Casualty Ins. Co.*, 227 Kan. 914, 926 (1980).	Yes	No case law

Kentucky	Common Law Tort (Anderson)	Throughout the history of Anglo–American law, the most important decisions societies have made have been entrusted to duly empaneled and properly instructed juries. Decisions as to human life, liberty and public and private property have been routinely made by jurors and extraordinary confidence has been placed in this decision-making process. We are confident that jurors deciding issues of bad faith will act responsibly and refrain from awarding damages in tort except in those circumstances where such is clearly warranted and then only in appropriate amounts. *Curry v. Fireman's Fund Ins. Co.*, 784 S.W.2d 176, 178 (Ky. 1989).	Yes	No case law
Louisiana	LSA-R.S. 22:1973	A. An insurer, including but not limited to a foreign line and surplus line insurer, owes to his insured a duty of good faith and fair dealing. The insurer has an affirmative duty to adjust claims fairly and promptly and to make a reasonable effort to settle claims with the insured or the claimant, or both. Any insurer who breaches these duties shall be liable for any damages sustained as a result of the breach. B. Any one of the following acts, if knowingly committed or performed by an insurer, constitutes a breach of the insurer's duties imposed in Subsection A of this Section: (1) Misrepresenting pertinent facts or insurance policy provisions relating to any coverages at issue. (2) Failing to pay a settlement within thirty days after an agreement is reduced to writing. (3) Denying coverage or attempting to settle a claim on the basis of an application which the insurer knows was altered without notice to, or knowledge or consent of, the insured. (4) Misleading a claimant as to the applicable prescriptive period. (5) Failing to pay the amount of any claim due any person insured by the contract within sixty days after receipt of satisfactory proof of loss from the claimant when such failure is arbitrary, capricious, or without probable cause. (6) Failing to pay claims pursuant to R.S. 22:1893 when such failure is arbitrary, capricious, or without probable cause.	No (health and accident insurance excluded)	No (health and accident insurance excluded)
Maine	None	The plaintiffs finally contend that the trial court erred in dismissing their claim for damages resulting from Farm Family's commission of the tort of bad faith. The court concluded that the tort of bad faith is not recognized under Maine law. This is our first opportunity to address this issue and we expressly refuse to recognize an independent tort of bad faith resulting from an insurer's breach of its duty to act in good faith and deal fairly with an insured. *Marquis v. Farm Family Mut. Ins. Co*., 628 A.2d 644 (Me. 1993).	N/A	N/A

Maryland	None	Defendant's motion to dismiss Count II will be granted insofar as that count seeks to assert any tort or hybrid tort/contact claim, because it is well-settled that there is no first party bad faith claim maintainable against an insurer under Maryland law. *Yuen v. American Republic Ins. Co.*, 786 F. Supp. 531 (D. Md. 1992).	N/A	N/A
Massachusetts	MA ST 93A § 9	(1) Any person, other than a person entitled to bring action under section eleven of this chapter, who has been injured by another person's use or employment of any method, act or practice declared to be unlawful by section two or any rule or regulation issued thereunder or any person whose rights are affected by another person violating the provisions of clause (9) of section three of chapter one hundred and seventy-six D may bring an action in the superior court, or in the housing court as provided in section three of chapter one hundred and eighty-five C whether by way of original complaint, counterclaim, cross-claim or third party action, for damages and such equitable relief, including an injunction, as the court deems to be necessary and proper.	Yes	Unclear
Michigan	None	The parties do not dispute that a cause of action in contract arises upon a bad-faith breach of a disability insurance contract. Their positions differ sharply, however, on the question of whether and under what circumstances mental distress and exemplary damages are recoverable as a consequence of such a breach. Under the rule of *Hadley v. Baxendale*, 9 Exch. 341; 156 Eng.Rep. 145 (1854), the damages recoverable for breach of contract are those that arise naturally from the breach or those that were in the contemplation of the parties at the time the contract was made. 5 Corbin, Contracts, s 1007. Application of this principle in the commercial contract situation generally results in a limitation of damages to the monetary value of the contract had the breaching party fully performed under it. Thus, it is generally held that damages for mental distress cannot be recovered in an action for breach of a contract. *Kewin v. Massachusetts Mut. Life Ins. Co.*, 409 Mich. 401, 423 (1980).	N/A	N/A
Minnesota	MN STAT 608.14	Subd. 2.Liability. (a) The court may award as taxable costs to an insured against an insurer amounts as provided in subdivision 3 if the insured can show: (1) the absence of a reasonable basis for denying the benefits of the insurance policy; and	No	No

		(2) that the insurer knew of the lack of a reasonable basis for denying the benefits of the insurance policy or acted in reckless disregard of the lack of a reasonable basis for denying the benefits of the insurance policy. (b) A violation of this section shall not be the basis for any claim or award under chapter 325D or 325F. (c) An insurer does not violate this subdivision by conducting or cooperating with a timely investigation into arson or fraud.		
Mississippi	Common Law Tort	We have traditionally held that damages for mental anguish and emotional distress cannot be considered in the absence of a finding of an independent intentional tort separate from the breach of contract. *Aetna Casualty and Surety Co.,* 487 So.2d at 835; *State Farm Fire and Casualty Co. v. Simpson,* 477 So.2d 242 (Miss.1985). Bad faith is considered such an independent tort. *Pioneer Life,* 513 So.2d at 931 (Robertson, J., concurring); *Blue Cross & Blue Shield v. Maas,* 516 So.2d 495 (Miss.1987). Here, the evidence supports only a finding of mistake, nothing more than simple negligence. Simple negligence is not such an independent tort that would support extra-contractual damages. *Universal Life Ins. Co. v. Veasley*, 610 So. 2d 290 (Miss. 1992), reh'g denied, (Jan. 8, 1993).	Yes	No case law
Missouri	MO ST 375.420	In any action against any insurance company to recover the amount of any loss under a policy of automobile, fire, cyclone, lightning, life, health, accident, employers' liability, burglary, theft, embezzlement, fidelity, indemnity, marine or other insurance except automobile liability insurance, if it appears from the evidence that such company has refused to pay such loss without reasonable cause or excuse, the court or jury may, in addition to the amount thereof and interest, allow the plaintiff damages not to exceed twenty percent of the first fifteen hundred dollars of the loss, and ten percent of the amount of the loss in excess of fifteen hundred dollars and a reasonable attorney's fee; and the court shall enter judgment for the aggregate sum found in the verdict.	Yes	Yes
Montana	Bad Faith Claims Prohibited	An insured who has suffered damages as a result of the handling of an insurance claim may bring an action against the insurer for breach of the insurance contract, for fraud, or pursuant to this section, but not under any other theory or cause of action. An insured may not bring an action for bad faith in connection with the handling of an insurance claim. MT ST 33-18-242	N/A	N/A

Nebraska	Common Law Tort (Anderson)	Based on our existing precedent on the standard of care in the third-party cases, as well as on policy considerations, the standard of care set forth in *Anderson, supra,* is adopted. A requirement of intentional or reckless conduct arises from the commonsense notion that "[t]he insurer ... must be accorded wide latitude in its ability to investigate claims and to resist false or unfounded efforts to obtain funds not available under the contract of insurance." *Travelers Ins. Co. v. Savio,* 706 P.2d 1258, 1274 (Colo.1985). We conclude that the *Anderson* standard of care strikes a proper balance between the respective rights of the insurer and the policyholder. *Braesch v. Union Ins. Co.*, 237 Neb. 44, 48 (1991).	Yes	Yes
Nevada	Common Law Tort (Gruenberg)	Nevada law recognizes the existence of an implied covenant of good faith and fair dealing in every contract. *A.C. Shaw Construction v. Washoe County,* 105 Nev. 913, 914, 784 P.2d 9, 10 (1989); *Ainsworth v. Combined Ins.,* 104 Nev. 587, 592, 763 P.2d 673, 676 (1988). An insurer fails to act in good faith when it refuses "without proper cause" to compensate the insured for a loss covered by the policy. *United States Fidelity & Guaranty Co. v. Peterson,* 91 Nev. 617, 620, 540 P.2d 1070, 1071 (1975). Such conduct gives rise to a breach of the covenant of good faith and fair dealing. 91 Nev. at 620, 540 P.2d at 1071. This breach or failure to perform constitutes "bad faith" where the relationship between the parties is that of insurer and insured. *See generally K Mart Corp. v. Ponsock*, 103 Nev. 39, 732 P.2d 1364 (1987). *Pemberton v. Farmers Ins. Exchange*, 109 Nev. 789 (1993).	Yes	No case law
New Hampshire	Extension of Common Law Breach of Contract	The insured must, of course, prove that the insurer's failure or delay in payment was a breach of contract. Not every delay or refusal to settle or pay a claim under the policy will constitute a breach of the contract. Cf., e. g., *Ledingham v. Blue Cross Plan for Hosp. Care of Hospital Serv. Corp*., 29 Ill.App.3d 339, 330 N.E.2d 540 (1975) (refusal reasonable); *State Farm Gen. Ins. Co. v. Clifton*, 86 N.M. 757, 527 P.2d 798 (1974) (delay reasonable); *Amsden v. Grinnell Mut. Reins. Co*., 203 N.W.2d 252 (Iowa 1972) (same). There is, however, implied in every contract an obligation of good faith and fair dealing. *Bursey v. Clement*, 118 N.H. 412, 387 A.2d 346 (May 31, 1978); *Seaward Constr. Co. v. City of Rochester*, 118 N.H. 128, 383 A.2d 707 (1978). Where the defendant's failure to make prompt payment under the policy is to coerce the insured into accepting less than full performance of the insurer's contractual obligations, as is alleged here, there is a breach of this covenant. Whether the defendant's delay was in fact in bad faith, whether the damages alleged to have resulted from the delay were in fact foreseeable, and whether these damages could have been avoided with reasonable efforts by the insured are questions for the jury. *Lawton v. Great Southwest Fire Ins. Co.*, 118 N.H. 607, 613-14 (1978).	Yes	No case law

New Jersey	Extension of Common Law Breach of Contract	Does this mean that if one building contractor promised to perform the work in a professional manner and another did not that the first contractor would be sued in contract for any shoddy work and the second contractor would be sued in tort? We think not; the law would imply in the latter case a promise to perform in a professional manner. Should not the law equally imply here a promise by the insurer to perform the contract, that is to pay the benefits, in a diligent and efficient manner? The demands of formalism do not require that we make a tort out of what is really an unfulfilled promise. *Pickett v. Lloyd's*, 131 N.J. 457, 470 (1993).	Yes	Yes
New Mexico	Common Law Tort (Anderson)	The claim is a tort claim for unreasonable delay in paying medical expenses under the insurance contract. Such a tort claim provides a basis for recovery if there is evidence of bad faith. Bad faith means a frivolous or unfounded refusal to pay. *State Farm General Insurance Company v. Clifton*, 86 N.M. 757, 527 P.2d 798 (1974). As a part of plaintiff's claim for punitive damages she specifically alleges bad faith. In addition, plaintiff's allegation as to State Farm's purpose in refusing to pay the medical expenses was a sufficient allegation of bad faith as defined in Clifton, supra. Plaintiff's claim of unreasonable delay in paying medical expenses stated a claim upon which relief could be granted. *Chavez v. Chenoweth*, 89 N.M. 423, 429 (Ct. App. 1976).	Yes	No case law
New York	Extension of Common Law Breach of Contract	As in all contracts, implicit in contracts of insurance is a covenant of good faith and fair dealing, such that "a reasonable insured would understand that the insurer promises to investigate in good faith and pay covered claims" (*New York Un Co.,* 87 N.Y.2d 308, 318, 639 N.Y.S.2d 283, 662 N.E.2d 763 [1995]). An insured may also bargain for the peace of mind, or comfort, of knowing that it will be protected in the event of a catastrophe (*see e.g. Beck v. Farmers Ins. Exch.,* 701 P.2d 795, 802 [Utah 1985] ["(I)t is axiomatic that insurance frequently is purchased not only to provide funds in case of loss, but to provide peace of mind for the insured or his beneficiaries"]; *Best Place, Inc. v. Penn Am. Ins. Co.,* 82 Hawai'i 120, 128, 920 P.2d 334, 342 [1996], quoting *Noble v. National Am. Life Ins. Co.,* 128 Ariz. 188, 189, 624 P.2d 866, 867 [1981] ["An insurance policy is not obtained for commercial advantage; it is obtained as protection against calamity"]; *Andrew Jackson Life Ins. Co. v. Williams,* 566 So.2d 1172, 1179 n. 9 [Miss. 1990] ["(A)n insured bargains for more than mere eventual monetary proceeds of a policy; insureds bargain for such intangibles as risk aversion, peace of mind, and certain and prompt payment of the policy proceeds upon submission of a valid claim"]; *Ainsworth v. Combined Ins. Co. of Am.,* 104 Nev. 587, 592, 763 P.2d 673, 676 [1988] ["A consumer buys insurance for security, protection, and peace of mind"]).	Yes	Yes

		Bi-Economy Market, Inc. v. Harleysville Ins. Co. of New York, 10 N.Y.3d 187, 194 (2008).		
North Carolina	Common Law Tort (Gruenberg)	Nevertheless, when there is an identifiable tort even though the tort also constitutes, or accompanies, a breach of contract, the tort may itself give rise to a claim for punitive damages." *Newton v. Standard Fire Insurance Co.,* 291 N.C. 105, 111, 229 S.E.2d 297, 301 (1976). But the Court added the following qualification: "Even when sufficient facts are alleged to make out an identifiable tort, however, the tortious conduct must be accompanied by or partake of some element of aggravation before punitive damages will be allowed." *Id.* at 112, 229 S.E.2d at 301. In the sense used here, aggravated conduct has long been defined to include "fraud, malice, gross negligence, insult, ... wilfully, or under circumstances of rudeness or oppression, or in a manner which evinces a reckless and wanton disregard of the plaintiff's rights." *Baker v. Winslow,* 184 N.C. 1, 5, 113 S.E. 570, 572 (1922). During the nine years since *Newton,* our courts have relied on this exception at least three times in holding that a party to an action for breach of contract had also stated a claim for punitive damages. *Stanback v. Stanback,* 297 N.C. 181, 254 S.E.2d 611 (1979); *Payne v. N.C. Farm Bureau Mutual Insurance Co.,* 67 N.C.App. 692, 313 S.E.2d 912 (1984); and *Dailey v. Integon,* 57 N.C.App. 346, 291 S.E.2d 331 (1982), the earlier appeal in this case. In each of these cases, it was held that the trial court erroneously dismissed the plaintiff's claim for punitive damages under Rule 12(b)(6) of the N.C. Rules of Civil Procedure. In *Payne v. N.C. Farm Bureau Mutual Insurance Co.,* the plea for punitive damages was also based on an insurance company's bad faith refusal to settle a policy claim and in reversing the trial court's dismissal on the pleadings, the decision in *Dailey* was relied upon. These decisions clearly support the proposition that under some circumstances our law permits the recovery of punitive damages on claims for a tortious, bad faith refusal to settle under an insurance policy, even though, as in this instance, the refusal to settle is also a breach of contract. *Dailey v. Integon General Ins. Corp.*, 75 N.C. App. 387, 395 (1985).	Yes	No case law
North Dakota	Common Law Tort (Gruenberg)	We hold that in North Dakota an insurer is obligated to act in good faith in its relationship with its policyholders. An insurer's breach of this duty may subject it to liability for damages to the insured proximately caused thereby. Cf. *Bekken v. Equitable Life Assur. Soc.*, 70 N.D. 122, 293 N.W. 200 (1940), wherein this court held that an insurance company is under a legal duty to take prompt action on an application for an insurance policy. *Corwin Chrysler-Plymouth, Inc. v. Westchester Fire Ins. Co.*, 279 N.W.2d 638, 643 (N.D. 1979).	Yes	No case law

Ohio	Common Law Tort (Gruenberg)	Accordingly, this court holds that, based on the relationship between an insurer and its insured, an insurer has the duty to act in good faith in the handling and payment of the claims of its insured. A breach of this duty will give rise to a cause of action against the insurer. *Hoskins v. Aetna Life Ins. Co.*, 6 Ohio St. 3d 272, 276 (1983).	Yes	Yes
Oklahoma	Common Law Tort (Gruenberg)	We approve and adopt the rule that an insurer has an implied duty to deal fairly and act in good faith with its insured and that the violation of this duty gives rise to an action in tort for which consequential and, in a proper case, punitive, damages may be sought. We do not hold that an insurer who resists and litigates a claim made by its insured does so at its peril that if it loses the suit or suffers a judgment against it for a larger amount than it had offered in payment, it will be held to have breached its duty to act fairly and in good faith and thus be liable in tort. *Christian v. American Home Assur. Co.*, 577 P.2d 899, 904-05 (Okla. 1977).	Yes	Yes
Oregon	Extension of Common Law Breach of Contract?	We noted that, if an insurer engages in egregious conduct, that conduct could give rise to a tort action and punitive damages. We held, however, that the trial court did not err, because the plaintiff failed to allege acts of bad faith or egregious conduct. Any language in *Porter* implying that the tort of first-party bad faith, absent egregious acts amounting to outrageous conduct, is actionable in Oregon was dictum. We hold that, under *Farris,* an insurer's bad faith refusal to pay policy benefits to its insured sounds in contract and is not an actionable tort in Oregon. *Employers' Fire Ins. Co. v. Love It Ice Cream Co*., 64 Or. App. 784, 791 (1983).	Yes	Yes
Pennsylvania	42 Pa. Cons. Stat. § 8371	In an action arising under an insurance policy, if the court finds that the insurer has acted in bad faith toward the insured, the court may take all of the following actions: (1) Award interest on the amount of the claim from the date the claim was made by the insured in an amount equal to the prime rate of interest plus 3%. (2) Award punitive damages against the insurer. (3) Assess court costs and attorney fees against the insurer.	Yes	Yes
Rhode Island	RI ST § 9-1-33	Notwithstanding any law to the contrary, an insured under any insurance policy as set out in the general laws or otherwise may bring an action against the insurer issuing the policy when it is alleged the insurer wrongfully and in bad faith refused to pay or settle a claim made pursuant to the provisions of the policy, or otherwise wrongfully and in bad faith refused to timely perform its obligations under the contract of insurance. In any action brought pursuant to this section, an insured may also make claim for compensatory damages, punitive damages, and reasonable attorney fees. In all cases in which there has been no trial in the Superior Court on or before	Yes	Yes

		May 20, 1981, the question of whether or not an insurer has acted in bad faith in refusing to settle a claim shall be a question to be determined by the trier of fact.		
South Carolina	Common Law Tort (Gruenberg)	We hold today that if an insured can demonstrate bad faith or unreasonable action by the insurer in processing a claim under their mutually binding insurance contract, he can recover consequential damages in a tort action. Actual damages are not limited by the contract. Further, if he can demonstrate the insurer's actions were willful or in reckless disregard of the insured's rights, he can recover punitive damages. *Nichols v. State Farm Mut. Auto. Ins. Co.*, 279 S.C. 336, 340 (1983).	Yes	Yes
South Dakota	Common Law Tort (Gruenberg)	While we recognize that there is a split of authorities on the issue before us, we believe the correct judicial path to be that which allows a cause of action against an insurance company for bad faith failure to pay a claim. *Matter of Certification of a Question of Law from the U.S. Dist. Court, Dist. of South Dakota, Western Div*., 399 N.W.2d 320, 322 (S.D. 1987).	Yes	Yes
Tennessee	Extension of Common Law Breach of Contract	Nowhere in *Flint* does our Supreme Court state that it is acknowledging the tort of bad faith in this state. *Flint* was a contract action. It sought a contractual type of relief, the rescission of releases for fraudulent inducement and acts of bad faith on the part of the insurer. Certainly, acts of fraudulent inducement amount to "bad faith," but where contractual relief is given on those grounds, this cannot be construed as recognizing the existence of the tort of bad faith in this state. *Chandler v. Prudential Ins. Co.*, 715 S.W.2d 615, 621 (Tenn. Ct. App. 1986).	Yes	No case law
Texas	Common Law Tort (Anderson)	The next issue to be addressed is the standard of care that applies to claims that the compensation carrier breached its duty of good faith and fair dealing. A workers' compensation claimant who asserts that a carrier has breached the duty of good faith and fair dealing by refusing to pay or delaying payment of a claim must establish (1) the absence of a reasonable basis for denying or delaying payment of the benefits of the policy *and* (2) that the carrier knew or should have known that there was not a reasonable basis for denying the claim or delaying payment of the claim. *Aranda v. Insurance Co. of North America*, 748 S.W.2d 210, 211 (Tex. 1988) *overruled on other grounds by Tex. Mut. Ins. Co. v. Ruttiger*, 381 S.W.3d 430 (Tex. 2012).	Yes	No case law
Utah	Extension of Common	[W]e hold that the good faith duty to bargain or settle under an insurance contract is only one aspect of the duty of good faith and fair dealing implied in all contracts and that a violation of that duty gives rise to a claim for breach of contract.	Yes	No case law

	Law Breach of Contract	*Beck v. Farmers Ins. Exchange*, 701 P.2d 795, 798 (Utah 1985).		
Vermont	Common Law Tort (Anderson)	To establish a claim for bad faith, a plaintiff must show that (1) the insurance company had no reasonable basis to deny benefits of the policy, and (2) the company knew or recklessly disregarded the fact that no reasonable basis existed for denying the claim. See *id.* An insurance company may challenge claims that are " 'fairly debatable' " and " 'will be found liable only where it has intentionally denied (or failed to process or pay) a claim without a reasonable basis.' " *Id.* (quoting *Anderson v. Continental Ins. Co.,* 85 Wis.2d 675, 271 N.W.2d 368, 377 (1978)). *Bushey v. Allstate Ins. Co.*, 164 Vt. 399, 402 (1995), reargument denied, (Dec. 5, 1995).	Yes	No case law
Virginia	Extension of Common Law Breach of Contract	We hold that the plaintiffs pled sufficient facts to support their action for breach of contract based on Selective's alleged breach of its covenant of good faith and fair dealing. *Levine v. Selective Ins. Co. of America*, 250 Va. 282, 287 (1995).	No case law	No case law
Washington	WA ST 48.01.030	The business of insurance is one affected by the public interest, requiring that all persons be actuated by good faith, abstain from deception, and practice honesty and equity in all insurance matters. Upon the insurer, the insured, their providers, and their representatives rests the duty of preserving inviolate the integrity of insurance.	Yes	Yes
West Virginia	Multiple Fair Claims Act Violations	A prevailing plaintiff in a *Jenkins* claim may recover his increased costs and expenses, including increased attorney fees, resulting from the insurance company's use of an unfair business practice in the settlement or failure to settle fairly the underlying claim. He likewise may recover punitive damages in an appropriate case. *See* note 12, *Jenkins v. J.C. Penney Casualty Insurance Company, supra.* We have said that to recover punitive damages it must be shown that the conduct of the insurer was wilful, malicious, and intentional. *McCormick v. Allstate Ins. Co*., 197 W. Va. 415, 425 (1996).	Yes, to a limited extent	Unclear
Wisconsin	Common Law Tort (Anderson)	**To show a claim for bad faith, a plaintiff must show the absence of a reasonable basis for denying benefits of the policy and the defendant's knowledge or reckless disregard of the lack of a reasonable basis for denying the claim. It is apparent, then, that the tort of bad faith is an intentional one.** ***Anderson v. Continental Ins. Co.*, 85 Wis. 2d 675, 691 (1978).**	Yes	No case law
Wyoming	Common Law Tort (Anderson)	[W]e believe the superior view recognizes the existence of the independent tort for violation of a duty of good faith and fair dealing in insurance policy application by the carrier to its insured.	No case law	Yes

		McCullough v. Golden Rule Ins. Co., 789 P.2d 855, 858 (Wyo. 1990).		