

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON,
EUGENE DIVISION

C.V. v. American Family Mutual Insurance Company, S.I.

No. 6:25-cv-01055-MC (D. Or. Jan. 28, 2026) · No. 6:25-cv-01055-MC · Decided January 28, 2026

SUMMARY

The United States District Court for the District of Oregon partially granted and partially denied an insurer’s motion to dismiss claims arising from an underinsured motorist insurance claim. The court held that emotional distress damages are unavailable for breach of the implied covenant of good faith and fair dealing because that claim is contractual, but concluded that the plaintiff adequately pleaded a negligence per se claim based on alleged violations of Oregon’s unfair claim settlement practices statute. The contractual emotional-distress claim was dismissed with prejudice, while the negligent-performance claim survived.

CASE DETAILS

COURT	United States District Court for the District of Oregon, Eugene Division
WRITING FOR THE COURT	Michael J. McShane
JURISDICTION	United States District Court for the District of Oregon, Eugene Division
DECIDED	January 28, 2026
DOCKET	6:25-cv-01055-MC
DISPOSITION	other
PROCEDURAL POSTURE	Defendant removed the action from Oregon state court based on diversity jurisdiction and moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss the emotional-distress-damages portion of the implied-covenant claim and the negligent-performance-of-an-insurance-contract claim.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court accepts well-pleaded allegations of material fact as true, construes them in the light most favorable to the nonmovant, and determines whether the complaint contains enough factual matter to state a plausible claim for relief.
PRECEDENTIAL VALUE	unknown

TOPICS

insurance coverage

negligence

motions to dismiss

civil procedure

PRACTICE AREAS

Insurance law

Civil procedure

Torts

Contract law

Remedies

QUESTIONS PRESENTED

1. Whether Oregon law permits recovery of emotional-distress damages for breach of the implied covenant of good faith and fair dealing in an insurance contract.
2. Whether the complaint adequately pleaded a negligence-per-se or negligent-performance claim based on alleged violations of Oregon's unfair claim settlement practices statute, ORS 746.230, including a claim for emotional-distress damages.

HOLDINGS

1. Under Oregon law, a claim for breach of the implied covenant of good faith and fair dealing is contractual, and emotional-distress damages are not recoverable for that claim.
2. The complaint adequately pleaded a negligence-per-se claim based on alleged violations of ORS 746.230 and plausibly alleged entitlement to emotional-distress damages; the negligent-performance claim therefore survives the Rule 12(b)(6) motion.

KEY QUOTATIONS

“By alleging a breach of the implied covenant of good faith and fair dealing, Plaintiff’s claim does not stem from any “extracontractual obligation.”” (Discussion I)

“The Court finds that Plaintiff has offered sufficient factual allegations to give Defendant “fair notice of what the . . . claim is and the grounds upon which it rests.”” (Discussion II)

“The portion of Plaintiff’s First Claim for Relief seeking emotional distress damages is DISMISSED with prejudice.” (Conclusion)

FACTUAL BACKGROUND

In August 2024, fourteen-year-old C.V. was severely injured when he was struck by an underinsured motorist while bicycling in Oregon. His parents maintained automobile insurance policies issued by American Family, and the other driver's insurer offered the \$300,000 policy limit. After receiving permission to accept that amount, C.V. demanded the \$500,000 total underinsured-motorist coverage limit under his parents' policies. American Family tendered \$25,000, and C.V. alleged that the insurer failed to reasonably investigate, settle, and pay the claim, causing economic and emotional harm.

PROCEDURAL HISTORY

Plaintiff filed the action in Oregon state court on May 15, 2025, asserting claims for breach of the implied covenant of good faith and fair dealing, negligent performance of an insurance contract, and breach of contract.

Defendant timely removed the case to the United States District Court for the District of Oregon and filed a partial motion to dismiss. The court dismissed with prejudice the request for emotional-distress damages under the implied-covenant claim but denied dismissal of the negligent-performance claim.

DISPOSITION

other

CASES CITED

- Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662 (2009)
- Burgert v. Lokelani Bernice Pauahi Bishop Trust, 200 F.3d 661 (9th Cir. 2000)
- Papasan v. Allain, 478 U.S. 265 (1986)
- Lopez v. Smith, 203 F.3d 1122 (9th Cir. 2000)
- Moody v. Oregon Community Credit Union, 542 P.3d 24 (Or. 2023)
- Abraham v. T. Henry Construction, Inc., 249 P.3d 534 (Or. 2011)
- Uptown Heights Associates Ltd. Partnership v. Seafirst Corp., 891 P.2d 639 (Or. 1995)
- Krainski v. Nevada ex rel. Board of Regents of Nevada System of Higher Education, 616 F.3d 963 (9th Cir. 2010)

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON EUGENE DIVISION C.V., a minor, by and through his Case No. 6:25-cv-01055-MC guardian ad litem, Jamie Vaughn, OPINION AND ORDER Plaintiff, v. AMERICAN FAMILY MUTUAL INSURANCE COMPANY, S.I., Defendant. MCSHANE, Judge: Plaintiff C.V. brings this action for breach of the implied covenant of good faith and fair dealing and negligent performance of an insurance contract.

First Am. Compl. ¶¶ 20–39, ECF No. 11 (“FAC”). Defendant American Family Mutual Insurance Company now moves to dismiss: (1) Plaintiff’s claim for emotional distress damages under the implied covenant of good faith and fair dealing and (2) Plaintiff’s negligent performance of an insurance contract claim.¹ Partial Mot. Dismiss 1–2, ECF No. 12. Plaintiff cannot seek non-economic damages for his good faith and fair dealing claim, but his negligent performance claim survives Defendant’s Motion.

Accordingly, the Court GRANTS in part and DENIES in part Defendant’s Partial Motion to Dismiss, ECF No. 12. 1 Defendant does not move to dismiss the portion of Plaintiff’s good faith and fair dealing claim seeking economic damages. Partial Mot. Dismiss 1; FAC ¶ 27. Nor does Defendant challenge Plaintiff’s Third Claim for Relief—a breach of contract claim. Partial Mot.

Dismiss 1–2; FAC ¶¶ 40–43. BACKGROUND In August of 2024, Plaintiff, 14-year-old C.V., was bicycling in Prineville, Oregon, when he was struck and severely injured by an underinsured motorist (“UIM”). FAC ¶¶ 10–12. At the time of the accident, Plaintiff’s parents each had automobile insurance policies issued through Defendant. Id. ¶ 5.

The underinsured driver who struck Plaintiff carried insurance through the vehicle she was driving. Id. ¶ 15. Her insurance company offered Plaintiff the policy limit amount of \$300,000 after the accident. Id. Plaintiff received permission from Defendant to accept that amount in November of 2024. Id. ¶¶ 16–17. Plaintiff maintains that his total damages exceed the limits of the underinsured motorist’s policy.

Id. ¶¶ 14–15. In March of 2025, Plaintiff sent Defendant a formal demand letter for the total UIM coverage limit of \$500,000 under Plaintiff’s parents’ policies. FAC ¶ 18. In response to his demand letter, Defendant tendered a total of \$25,000 to Plaintiff—\$12,500 from each of his parents’ policies. Id. ¶ 19.

On May 15, 2025, Plaintiff filed this action in state court alleging a breach of the implied covenant of good faith and fair dealing, negligent performance of an insurance contract, and breach of contract. FAC ¶¶ 20–43. Defendant timely removed the action on the basis of diversity jurisdiction and now moves to partially dismiss Plaintiff’s First Amended Complaint under Fed.

R. Civ. P. 12(b)(6). Notice of Removal ¶¶ 7–16, ECF No. 1; Partial Mot. Dismiss 1. LEGAL STANDARD To survive a motion to dismiss under Fed. R. Civ. P. 12(b)(6), a complaint must contain “enough facts to state a claim to relief that is plausible on its face.” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). A claim is plausible on its face when the “factual content” allows the court to reasonably infer that the defendant is liable for the alleged misconduct.

Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). The well-pleaded facts must present more than “the mere possibility of misconduct....” Id. at 679. When considering a motion to dismiss, the court must accept all allegations of material fact as true and construe them in the light most favorable to the non-movant. E.g., *Burgert v. Lokelani Bernice Pauahi Bishop Tr.*, 200 F.3d 661, 663 (9th Cir.

2000). But the court is “not bound to accept as true a legal conclusion couched as a factual allegation.” *Twombly*, 550 U.S. at 555 (quoting *Papasan v. Allain*, 478 U.S. 265, 286 (1986)). Upon dismissing a plaintiff’s complaint, a court should permit amendment unless “the pleading could not be cured by the allegation of other facts.” *Lopez v. Smith*, 203 F.3d 1122, 1130 (9th Cir.

2000). DISCUSSION I. Plaintiff cannot recover emotional distress damages for a breach of the implied covenant of good faith and fair dealing. Plaintiff’s claim for emotional distress damages arising from Defendant’s alleged breach of the implied covenant of good faith and fair dealing turns on whether Oregon law permits such recovery. Oregon law maintains that “[c]ontract and

tort claims are conceptually different and provide remedies for breach of conceptually different obligations.” *Moody v. Or.*

Cnty. Credit Union, 542 P.3d 24, 30 (Or. 2023). Emotional distress damages are not recoverable in a breach of contract action. *Id.* at 42. Plaintiff nonetheless contends that “an insurer’s violation of ORS [§] 746.230(1) is actionable in tort if the violation causes emotional harm to a first-party claimant.” Pl.’s Resp. Mot. Dismiss 10, ECF No. 15. Plaintiff’s claim for breach of the implied covenant of good faith and fair dealing sounds in contract law.

Contract claims stem from “the manifested intention of the parties to a bargaining transaction....” *Abraham v. T. Henry Constr., Inc.*, 249 P.3d 534, 538 (Or. 2011) (citation omitted). In contrast, “tort obligations are imposed by law—apart and independent of promises made and therefore apart from the manifested intention of the parties....” *Id.* Here, Plaintiff alleges that Defendant breached “its contractual obligations of good faith and fair dealing.” FAC ¶ 28.

Under Oregon law, every contract contains the implied covenant of good faith and fair dealing. E.g., *Uptown Heights Assocs. Ltd. P’ship v. Seafirst Corp.*, 891 P.2d 639, 645 (Or. 1995). By alleging a breach of the implied covenant of good faith and fair dealing, Plaintiff’s claim does not stem from any “extracontractual obligation.” *Moody*, 542 P.3d at 38. Instead, it arises from Defendant’s breach of an inherently “contractual obligation” and is therefore a contract action for which emotional distress damages are not available.

Id. at 39–40. II. Plaintiff has offered sufficient factual allegations to adequately plead negligence per se. Plaintiff avers that he has suffered economic and non-economic damages totaling \$750,000 resulting from Defendant’s negligent performance of the insurance contract. FAC ¶¶ 37–38. Oregon law allows an insured party to bring a claim for emotional distress damages arising from an insurer’s alleged violation of Oregon’s unfair claim settlement practices statute, ORS § 746.230.

Moody, 542 P.3d at 45 (holding “the insurance claim practices that ORS [§] 746.230 requires and the emotional harm that foreseeably may occur if that statute is violated are sufficiently weighty to merit imposition of liability for common-law negligence and recovery of emotional distress damages.”).² Defendant contends that Plaintiff alleges no “facts constituting a 2 The Court construes Plaintiff’s negligent performance of an insurance contract claim as a negligence per se claim under *Moody*.

Plaintiffs bringing such claims must allege “a legally protected interest sufficient to support a common-law negligence claim for emotional distress damages....” *Moody*, 542 P.3d at 45. The *Moody* plaintiff’s legally protected interest was that of a “surviving spouse of a deceased breadwinner” whose claim for life insurance benefits was summarily denied by the defendant—her late husband’s life insurer.

Id. This Court finds that Moody contemplates Plaintiff's legally protected interest in Defendant promptly and fairly processing his UIM insurance claim. Plaintiff suffered emotional distress after being badly injured in a vehicle accident and navigating sudden financial loss because of his medical expenses. If Defendant failed to reasonably investigate, settle, and pay Plaintiff's claim in the wake of his traumatic accident, this could give rise to the emotional distress damages sustained in Moody. violation of ORS § 746.230." Mot.

Dismiss 2. Plaintiff's factual allegations as to Defendant's negligent performance of the insurance contract adequately state a claim for relief under the federal pleading standards. Plaintiff maintains that Defendant violated four provisions of ORS § 746.230(1) by tendering \$25,000 to Plaintiff in response to his demand for \$500,000 under his parents' UIM policies.³ FAC ¶¶ 18–19, 33.

For instance, Plaintiff alleges that Defendant refused to adequately pay Plaintiff's claim without conducting a reasonable investigation as required by ORS § 746.230(1)(d). Id. ¶ 33. Plaintiff further asserts that, because of Defendant's negligence, he has suffered "increased emotional distress, worry, and lost peace of mind...." Id. ¶ 38.

The Court acknowledges that the factual allegations as to the emotional distress claim are sparse. However, at the pleading stage, Plaintiff must only state a plausible claim for relief. The Court finds that Plaintiff has offered sufficient factual allegations to give Defendant "fair notice of what the... claim is and the grounds upon which it rests." *Twombly*, 550 U.S. at 555 (citation omitted).

Defendant has enough to investigate and answer Plaintiff's Moody claim as well as proceed with discovery. Defendant distinguishes this case from Moody by pointing out that, unlike the insurer in that case, Defendant did not deny Plaintiff's UIM claim entirely. Mot. Dismiss 7. But this Court will not go so far as to conclude that Moody only applies when an insurer outright denies a claim.

To do so risks encouraging insurers to tender paltry amounts in response to plaintiffs' insurance claims as a way to sidestep Moody liability. ³ Plaintiff alleges that Defendant violated ORS §§ 746.230(1)(c) ("Failing to adopt and implement reasonable standards for the prompt investigation of claims"); (1)(d) ("Refusing to pay claims without conducting a reasonable investigation based on all available information"); (1)(f) ("Not attempting, in good faith, to promptly and equitably settle claims in which liability has become reasonably clear"); and (1)(g) ("Compelling claimants to initiate litigation to recover amounts due by offering substantially less than amounts ultimately recovered in actions brought by such claimants").

FAC ¶ 33. CONCLUSION Defendants' Partial Motion to Dismiss, ECF No. 12, is GRANTED in part and DENIED in part. The portion of Plaintiff's First Claim for Relief seeking emotional distress damages is DISMISSED with prejudice. This claim fails as a matter of law and "could not be saved by any amendment." *Krainski v. Nev. ex rel Bd. of Regents of Nev. Sys. of Higher Educ.*, 616 F.3d 963, 972 (9th Cir.

2010). As to Plaintiff's Second Claim for Relief, Defendant's Partial Motion to Dismiss is DENIED. IT IS SO ORDERED. DATED this 28th day of January 2026. ____s/Michael J. McShane_____ Michael McShane United States District Judge

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