

# RECENT DEVELOPMENTS

## INSURANCE

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### THE CONTRACTUAL RIGHT TO APPRAISAL MAY BE WAIVED

Ganim v. Zurich Am. Ins. Co., 2024 U.S. Dist. LEXIS 19383 (S.D. Tex. 2024).

<https://casetext.com/case/ganim-v-zurich-am-ins-co>

**FACTS:** Plaintiff Khalil Ganim alleged that his property insurer, Zurich American Insurance Company, underpaid his claim for property damages from Winter Storm Uri. Ganim moved to abate the case pending the appraisal provided by the parties' contract. Zurich opposed the motion to abate on the ground that Ganim waived his right to invoke appraisal. Zurich also moved to dismiss the extra-contractual claims in Ganim's second amended complaint.

**HOLDING:** Denied and granted in part.

**REASONING:** For the motion to abate, Zurich argued that Ganim's delays meant that he gave up his right to ask for an appraisal, and the court agreed. Ganim received his final payments for his claim in April 2021, but did not file this lawsuit until two years later. Ganim did not explain the reason he did not ask for appraisal during those two years, or why he waited six more months after filing suit. No evidence of any negotiations between the parties existed to explain the delay. The court concluded that Ganim waived his right to appraisal and the motion to abate was denied.

**His accusations under the Texas Deceptive Trade Practices Act lacked specific details, resulting in dismissal.**

The motion to dismiss was granted in part. In the breach of the duty of good faith and fair dealing, Ganim alleged Zurich's inadequate investigation of his property damage without offering clear examples, leading to dismissal. Similarly, his accusations under the Texas Deceptive Trade Practices Act lacked specific details, resulting in dismissal. Claims under the Texas Prompt Payment of Claims Act were also thrown out due to insufficient facts provided by Ganim. Additionally, Ganim's allegations regarding improper tactics under Chapter 541 of the Texas Insurance Code lacked clear evidence, leading to their dismissal, except for one claim.