Affirmed and Memorandum Opinion filed February 19, 2026.

In The

Fourteenth Court of Appeals

NO. 14-24-00239-CV

MARY BRIMER, Appellant

V.

STATE FARM LLOYDS, Appellee

On Appeal from the County Civil Court at Law No. 3
Harris County, Texas
Trial Court Cause No. 1191317

MEMORANDUM OPINION

In this insurance dispute appellant Mary Brimer appeals the trial court's summary judgment in favor of her homeowner's insurer, appellee State Farm Lloyds. Brimer appeals in two issues, contending that (1) an insurer's untimely payment of an appraisal award does not preclude an insured's breach of contract, bad faith, and insurance code claims and (2) her extracontractual claims may nonetheless proceed under the "entitlement-to-benefits" rule. Because the trial court correctly awarded summary judgment to State Farm, we affirm.

I. BACKGROUND

After a storm damaged Brimer's roof, she submitted an insurance claim in June 2020 to State Farm. State Farm inspected her property on July 3, 2020, partly denied her claim on July 6, 2020, and responded that the covered portion of Brimer's claim, $811.68, did not meet her deductible. Brimer's roofing contractor provided State Farm additional photographs and requested a second inspection. State Farm re-inspected the roof on July 18, 2020, with Brimer and her roofing contractor present, but found no additional covered damage and closed the claim.

In mid-November 2021, Brimer invoked an appraisal under the policy's terms and told State Farm that she would submit an estimate from a new roofing contractor. State Farm reviewed the $22,926.61 estimate from the new contractor on December 2, 2021, but it disagreed that the noted damage was consistent with hail and declined to conduct a third inspection. Brimer re-invoked her request for an appraisal on December 15, 2021. The parties designated their respective appraisers, who in turn agreed on an umpire.

The umpire and one appraiser issued an appraisal award of $23,907.17 for the replacement value of Brimer's roof and interior damage on April 18, 2022. But because the appraisal process did not encompass coverage issues, State Farm notified Brimer it stood by its previous coverage determination, *i.e.*, much of the roof damage was due to wear and tear and blistering, not hail, and her home's interior damage was not related. State Farm thus again determined that Brimer's covered loss did not exceed her deductible. In June 2022, counsel for Brimer sent State Farm a demand letter for payment of the appraisal award less the deductible, which State Farm declined. Brimer filed suit in September 2022.

After litigation commenced, State Farm supplemented its prior partial denial of Brimer's claim by letter on March 15, 2023. It explained that its position about coverage remained unchanged, but it nonetheless paid Brimer the appraisal award less her deductible. State Farm also paid an estimated prompt-payment penalty of $4,954.82 in interest under the Texas Prompt Payment of Claims Act,[1] with the caveat that such payment "should not be considered as an admission" that it "failed to meet these time requirements."

State Farm then moved for summary judgment in December 2023 based on the Texas Supreme Court's decision in *Ortiz v. State Farm Lloyds*, 589 S.W.3d 127 (Tex. 2019). State Farm argued *Ortiz* bars all of Brimer's claims because "appraisal is now complete, and State Farm has issued payment of the appraisal award, as well as any potential interest under the Texas Prompt Payment of Claims Act." State Farm Lloyds argued that because Brimer has been fully compensated under the policy, her claims are now legally precluded. The trial court granted State Farm's motion, and this appeal ensued.

II. Standard of Review

We review de novo a trial court's decision to grant summary judgment. *Ferguson v. Bldg. Materials Corp. of Am.*, 295 S.W.3d 642, 644 (Tex. 2009) (per curiam). We consider the evidence in the light most favorable to the non-movant, indulging reasonable inferences and resolving doubts in the non-movant's favor. *Cantey Hanger, LLP v. Byrd*, 467 S.W.3d 477, 481 (Tex. 2015). To prevail on a

[1] The Texas Prompt Payment of Claims Act ("TPPCA") imposes deadlines on insurers to pay valid claims. *See* Tex. Ins. Code Ann. §§ 542.057–.058; *see Hinojos v. State Farm Lloyds*, 619 S.W.3d 651, 652 (Tex. 2021). If an insurer fails to comply with these deadlines, it is then liable for statutory interest and attorney's fees. *See* Tex. Ins. Code Ann. § 542.060; *Hinojos*, 619 S.W.3d at 658–59. If an insurer late-pays the appraisal award, an insured may still seek payment of the TPPCA interest. *Rosales v. Allstate Vehicle & Prop. Ins.*, 672 S.W.3d 146, 152 (Tex. App.—Dallas 2023, pet. denied). But as to attorney's fees, pre-judgment payment of an appraisal award for a weather-related loss plus TPPCA interest extinguishes the insured's attorney's fees claim under the specific statutory formula. *See* Tex. Ins. Code Ann. § 542A.007(a); *Rodriguez v. Safeco Ins. Co. of Ind.*, 684 S.W.3d 789, 793, 795 (Tex. 2024).

traditional motion for summary judgment, the movant has the burden to establish that no genuine issue of material fact exists and that the movant is entitled to judgment as a matter of law. Tex. R. Civ. P. 166a(c); *Mann Frankfort Stein & Lipp Advisors, Inc. v. Fielding*, 289 S.W.3d 844, 848 (Tex. 2009). Once the movant establishes its entitlement to summary judgment, the burden shifts to the non-movant to raise a material fact issue precluding summary judgment. *Tex. Black Iron, Inc. v. Arawak Energy Int'l Ltd.*, 566 S.W.3d 801, 810 (Tex. App.—Houston [14th Dist.] 2018, pet. denied).

III. ANALYSIS

In her first issue, Brimer contends that State Farm's untimely payment of the appraisal award does not bar her causes of action for breach of contract, common law bad faith, and violations of Chapter 541 of the Texas Insurance Code for unfair claim settlement practices. In her second issue, Brimer also contends that payment of the appraisal award does not prevent her from recovering her extracontractual claims under the entitlement-to benefits rule.

State Farm counters that all Brimer's claims are barred pursuant to the Texas Supreme Court's opinion in *Ortiz*. *See* 589 S.W.3d at 133–35 (concluding that insurer's payment of appraisal award bars breach of contract claim and, where insured's "actual damages" are policy benefits that have already been paid, insured's claims for bad faith under Chapter 541 of the Insurance Code and in common law tort are also barred). Brimer acknowledges that under *Ortiz,* an insured's breach of contract claim is barred by an insurer's payment of an appraisal award—but argues such claim is barred only if the payment is *timely*. She reasons that if State Farm's payment was untimely, then her breach of contract claim remains viable as well as her claims for common law bad faith and Chapter 541 violations in turn.

However, we do not see a limitation in *Ortiz* specifying that its holding is premised on whether the insurer's payment of an appraisal award is timely. Courts have applied *Ortiz* even when the insurer pays the pre-suit appraisal award months after suit has been filed. *See, e.g.*, *Mirelez v. State Farm Lloyds*, 127 F.4th 949, 950 (5th Cir. 2025) (affirming summary judgment in favor of insurer that paid its insured six months after appraisal award and two months after insured filed suit); *Navarra v. State Farm Lloyds*, No. 23-20582, 2024 WL 3174505, at *1 (5th Cir. June 24, 2024) (per curiam); *Vernon v. State Farm Lloyds*, No. 23-cv-2142-E, 2025 WL 3635577, at *5 (N.D. Tex. Oct. 29, 2025) (magistrate's findings, conclusions, & recommendation) (recommending grant of summary judgment in part to insurer that "initially refused to pay the [appraisal] award in full" until two years after the appraisal award and "on the eve of the first trial setting); *cf.* *Homeowners of Am. Ins. v. Menchaca*, No. 01-23-00633-CV, 2025 WL 2165187, at * 4–5 (Tex. App.—Houston [1st Dist.] July 31, 2025, no pet. h.) (mem. op.) (concluding insured's breach of contract claim was barred though appraisal award was not issued, or paid by insurer, until after suit had already been filed). Under *Ortiz*, payment of an appraisal award forecloses an insurer's liability for breach of contract, *see* 589 S.W.3d at 133, and we thus conclude that the trial court correctly granted summary judgment to State Farm on Brimer's claim for breach of contract. *See Biasatti v. GuideOne Nat'l Ins.*, 601 S.W.3d 792, 794 (Tex. 2020).

As to Brimer's extracontractual claims for bad faith and violations of the Texas Insurance Code, she argues that they remained viable under the entitlement-to-benefits rule. State Farm counters that summary judgment was also proper on those claims under *Ortiz.* We agree with State Farm.

Under Texas law, an insured cannot prevail on her extracontractual claims unless she can satisfy either the entitlement-to-benefits rule or the "independent-injury rule." *See Ortiz*, 589 S.W.3d at 134; *Bonner v. Allstate Vehicle & Prop. Ins.*, No. 3:23-CV-158, 2024 WL 718202, at *3 (S.D. Tex. Jan. 3, 2024) (mem. op. & order). Under the entitlement-to-benefits rule, an insured who establishes a right to benefits under an insurance policy can recover the benefits as actual damages if the insurer's statutory violation causes the loss of the benefits. *USAA Tex. Lloyds Co. v. Menchaca*, 545 S.W.3d 479, 495 (Tex. 2018). Under the independent-injury rule, an insured must show she sustained "damages for a statutory violation that cause[d] an injury 'independent from the loss of benefits.'" *Ortiz*, 589 S.W.3d at 134 *see also Biasatti*, 601 S.W.3d at 794 (stating "payment of an appraisal award forecloses an insurer's liability for breach of contract and common-law and statutory bad faith unless the insured suffered an independent injury").

Here, Brimer has not identified or presented evidence of an independent injury and argues the entitlement-to-benefits rule allows her to recover extracontractual damages despite State Farm's payment of the appraisal award. Our sister court has recently rejected this argument in *In re Am. Risk Ins.*, No. 01-25-00575-CV, 2025 WL 3275144, at *5 (Tex. App.—Houston [1st Dist.] Nov. 25, 2025, orig. proceeding). There, like Brimer, the insureds received payment of an appraisal award under their insurance policy. *Id.* at *4. Like Brimer, the insureds relied on the Texas Supreme Court's opinion in *Menchaca*, 545 S.W.3d at 495, for the proposition that they were entitled to statutory damages even after their insurer paid the appraisal award. However, our sister court explained that such reliance on *Menchaca* has a fatal flaw: in *Menchaca*, neither party invoked appraisal and the insurer did not pay an appraisal award. *See Am. Risk Ins.*, 2025 WL 3275144, at *5 (citing *Menchaca*, 545 S.W.3d at 485 n.2). Our sister court reasoned that "[w]here, as here, the insurer pays the appraisal award, the insured receives 'all benefits [they were] entitled to receive under the policy,' and therefore 'cannot satisfy the entitlement-to-benefits rule.'" *Id*. (quoting *Bonner*, 2024 WL 718202 at *3). Our sister court thus concluded that the insureds were not entitled to a double recovery under the entitlement-to-benefits rule and that, absent an independent injury, the insurer's payment of the appraisal award foreclosed any further damages owed to them. *Id*. We agree with our sister court's reasoning. When an insured, like Brimer, has been paid all of the policy benefits to which she entitled, she cannot proceed on her extracontractual claims under the entitlement-to-benefit rule.

Because State Farm's payment of the appraisal award precludes Brimer's breach of contract claim, because Brimer has not identified an independent injury enabling her to proceed on her extracontractual claims, and because she is legally precluded from proceeding on her extracontractual claims under the entitlement-to-benefit rule, we conclude that the trial court correctly granted summary judgment to State Farm. We overrule Brimer's first and second issues.

Having overruled Brimer's issues, we affirm the judgment of the trial court.

/s/ Brad Hart
Justice

Panel consists of Justices Wilson, Hart, and McLaughlin.