

**IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY  
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA**

_____	:	<b>CIVIL TRIAL DIVISION</b>
<b>WILLIAM BROWN &amp; MARIA BROWN</b>	:	
<b>Plaintiffs/Appellants,</b>	:	<b>JULY TERM, 2007</b>
	:	<b>No. 3685</b>
<b>v.</b>	:	
	:	
<b>ALLSTATE INSURANCE COMPANY</b>	:	<b>Superior Court Docket No.</b>
<b>Appellee</b>	:	<b>2600 EDA 2007</b>
_____	:	

**OPINION**

**PROCEDURAL HISTORY**

Plaintiffs, William Brown and Maria Brown appeal from the Order dated September 7, 2007, wherein the trial Court granted Defendants' Motion to Transfer Venue to Chester County Pennsylvania.

**FACTUAL BACKGROUND**

Allstate Insurance Company (hereinafter Allstate) issued a Deluxe Plus Homeowner's Policy of Insurance (hereinafter Homeowner's Policy) on the property owned by William and Maria Brown (hereinafter Plaintiffs). (Complaint ¶3). The property that is the subject of this action was located 686 Weadley Road in Radnor, Pennsylvania, Chester County (hereinafter the Radnor Property). (Complaint, ¶3, Memorandum of Law in Opposition to Preliminary Objections, pg. 2).

On or about August 26, 2006, while the homeowner's policy was in force and effect, a storm caused damage to the Radnor property also causing debris to be left on the property. (Complaint, ¶4-5). Specifically, Plaintiffs allege that the storm caused several

large trees to fall on the Radnor property causing damage to their house, deck , roof and gutters. (Complaint, ¶10-15). It was contended by Plaintiffs, they spent approximately \$26,583.15 for the removal of trees, repairs to the deck and gutters and certain cosmetic maintenance. (Complaint, ¶13-15). It is asserted by Plaintiffs that they believe that the damage to the deck, costs of tree removal, damage to the roof and portions of the house near the roof, and other cosmetic work are covered under the applicable homeowner's policy issued by Allstate. (Complaint, ¶17).

The plaintiffs subsequently made a claim under the homeowner's policy terms for various damages to the Radnor property and removal of debris. (Complaint, ¶6). It is alleged by Plaintiffs that Allstate made payment in the amount of the \$11,653.05 covering only a portion of the claims for damages made by the Plaintiffs. (Complaint, ¶7). Plaintiffs aver that Allstate has refused to honor other aspects of the claim, which they believe are covered by the homeowner's insurance policy. (Complaint, ¶7).

On July 26, 2007, Plaintiffs instituted this action against Allstate for breach of contract for its failure to reimburse Plaintiffs for the full value of the damages sustained to their property as a result of the storm. (See Complaint). Plaintiff asked that a judgment be entered in the amount of \$14,930.10. (Complaint, ¶19).

Plaintiffs also brought a bad faith claim for Allstate's alleged intentional denial of Plaintiff's legitimate claim for property damage covered under their homeowner's insurance policy. (Complaint, ¶22).

On August 10, 2007 Allstate filed its preliminary objections to Plaintiffs' Complaint contending inter alia that Philadelphia County was an improper venue to bring

this cause of action. (Preliminary Objections to Complaint, pg.2). Plaintiff responded to the preliminary objections on September 5, 2007.

By Order dated September 7, 2007, the trial Court granted Allstate's preliminary objections and transferred the case to Chester County. Plaintiffs' subsequently filed their Notice of Appeal on October 2, 2007 and Statement of Matters accordingly.

The sole issue to be addressed on appeal is whether the trial Court abused its discretion or committed an error of law in granting Allstate's preliminary objections and transferring the case to Chester County.

### **LEGAL ANALYSIS**

Pursuant to Pa.R.C.P. 2179, which is the applicable rules on venue:

Rule 2179. Venue

(a) Except as otherwise provided by an Act of Assembly, by Rule 1006(a.1) or by subdivision (b) of this rule, a personal action against a corporation or similar entity may be brought in and only in

(1) the county where its registered office or principal place of business is located;

(2) *a county where it regularly conducts business;*

(3) the county where the cause of action arose;

(4) a county where a transaction or occurrence took place out of which the cause of action arose, or

(5) a county where the property or a part of the property which is the subject matter of the action is located provided that equitable relief is sought with respect to the property.

(b) *An action upon a policy of insurance against an insurance company, association or exchange, either incorporated or organized in Pennsylvania or doing business in this Commonwealth, may be brought*

(1) *in a county designated in Subdivision (a) of this rule; or*

(2) in the county where the insured property is located; or

(3) in the county where the plaintiff resides, in actions upon policies of life, accident, health, disability, and live stock insurance or fraternal benefit certificates.

Because this case involves claims for breach of contract and bad faith actions against Allstate insurance company based on an insurance policy plaintiff had with them the applicable subsection of the rule addressing this case would be 2179 (b), which deals with actions involving policies of insurance. 2179(b) incorporates all the criteria from subsection (a), in addition to other criteria for determining venue for contract cases. Of the 2179 (a) criteria, subsection (a)(2) states that venue in a personal action against a corporation can lie in a county where the corporation regularly does business. It is apparent that an insurance company such as Allstate does business in Philadelphia County. As such, the Order of August 21, 2007 was inadvertently entered in error. Based on this, the appellant's appeal should be sustained, venue should remain in Philadelphia County and the case returned to the trial Court for further action.

### **CONCLUSION**

For the foregoing reasons, this Court respectfully requests that the August 21, 2007 Order granting defendants' Preliminary Objections and transferring the case to the Chester County Court of Common Pleas be vacated and remanded back to the trial Court of Philadelphia County for further action.

**BY THE COURT:**

**1-9-2008**

\_\_\_\_\_  
Date

\_\_\_\_\_  
**ALLAN L. TERESHKO, J.**