# How to Define "Bad Faith" for Jurors

By Ryan Liffrig, Senior Jury Consultant

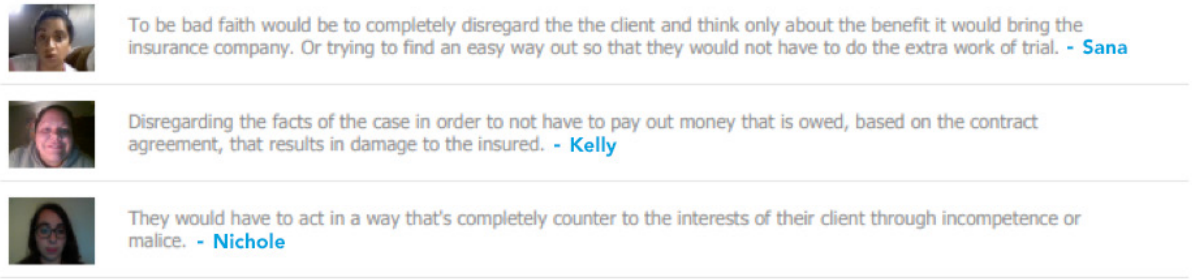
Our team has completed jury research projects on several bad faith cases, gaining insight into how jurors understand and interpret the concept of "bad faith." Because this idea can be difficult for lay jurors to grasp, we are sharing key findings and practical guidance for communicating it effectively in the courtroom.

Jurors who survive voir dire must sit through opening arguments and hear testimony from claim handlers and expert witnesses. Their attention may fluctuate throughout proceedings, and then they are presented with the jury instructions before being sent off to deliberate. At that point, jurors' internal definition of bad faith often drives the outcome—but what do they believe it actually means?

## What the Data Shows

We have posed this question to mock jurors in venues across the country. Below is an example of one group's responses.

**Q. Briefly, in your own words, what does it mean for an insurance company to act in a way that shows "arbitrary, reckless, indefferent or intentional desregard for the interests of its insured"?**



I'd describe bad faith as actions that place that pose significant risk of harm to the client; do not consider the client's interest; and intentionally misleading communications, behavior and actions committed with the intention of serving interest other than the client or performed without interest to the client. **- Sara**

In my opinion for an insurance company to act in a way that shows "arbitrary, reckless, indifferent, or intentional disregard for the interests of its insured," that insurance company must engage in conduct which defies reason. It must act without consideration for what the result will be for the insured; or with more concern for the outcome to itself, especially where such action is contrary to the objective evidence they know or should know of. **- Sovereign**

acting in bad faith to me means that the policy was not met and that the insurance company was only trying to cover their own interests. that means to me that the insurance company was trying to hold up there part of the contract and only there part regardless of what the insured wants. **- Christopher**

Not taking consideration for the insured physical and financial benefits. **- Rosa**

It could mean; not providing what they promised in their contract, not communicating with their clients in a timely fashion or going against the advice of other professionals to suit their own company's needs. **- Natalie**

Like I said if they think 70% chance is a high number their math is messed up. Thats rolling the dice with the client, and no rebuttal to injury claims... didn't listen to counsel or the Judge or their client. **- Blair**

It means that the insurance company acted reluctantly and very careless in compromising with the insured.Also meaning that the company had no good intentions and rejecting a met or agreed settlement. The insurance company using bad faith would care less and have no positive outlook on the insured and really pay very minimal attention to any written or contracted policy and just do what would they think would be necessary for the insured and still think that it is use or their good judgement. Also not following any rules or regulations within the contract between the company and the insured and disregarding their clients only protecting themselves. **- Alexis**

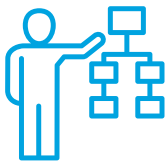
I would think there would have to be a pattern, not an isolated incident of any of these types of behavior. There needs to be a balance between protecting the interests of the shareholders and faithfully serving their client. **- John**

It means that they (the insurance company) do not care or do what is best for their clients and intentionally do what is in their best interest versus what is best for their client. Despite the consequences, they do not put their clients first. **- Emily**

The data reveals consistent, strategically important patterns in how jurors define bad faith:

- 43% of these jurors saw bad faith as "selfishness, believing the claim handler prioritized what was best for the insurer over the insured
- 37% described it as conduct that actively works against the insured's interests
- Additional descriptors included "disregard," "harm," and "unfair treatment"

Because the legal definition of bad faith varies by jurisdiction, trial narratives must help jurors understand the local legal standard. As attorney Dale Swope of Swope Rodante explained, some jurisdictions require only proof that an insurer failed to settle when it could and should have, not evidence of selfish conduct.



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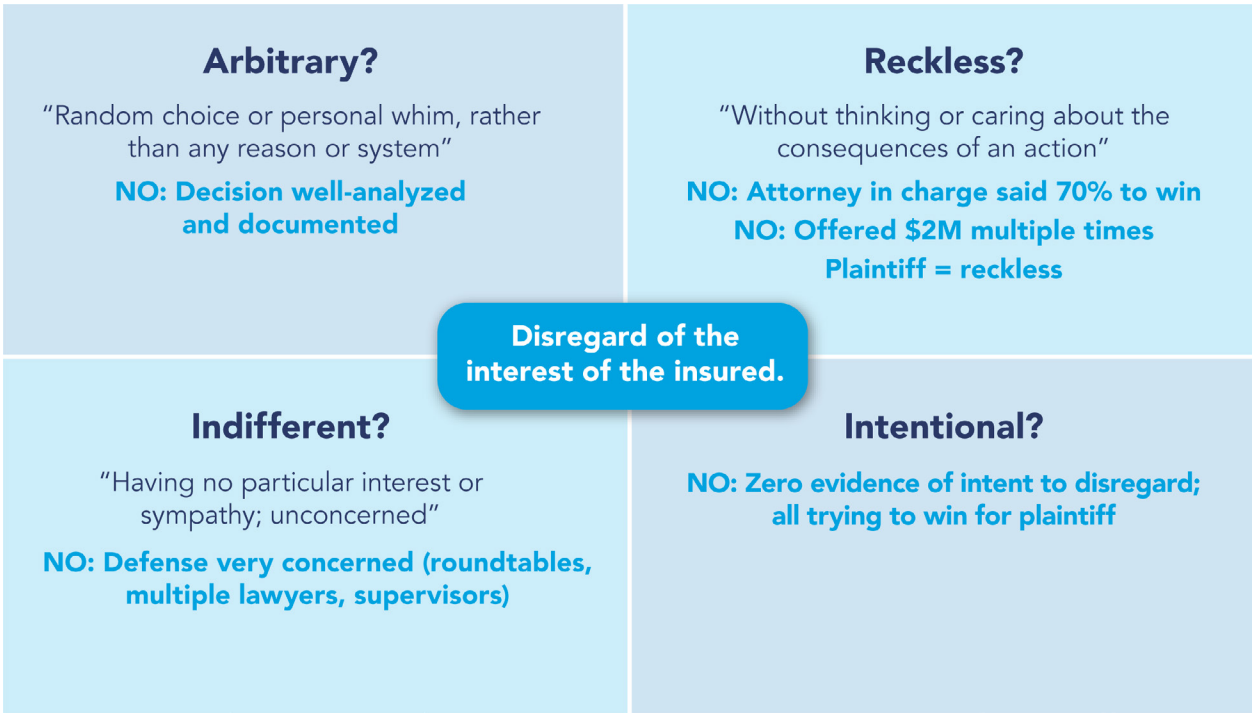
This short video clip of mock jurors deliberating the definition of bad faith illustrates how they thought through the issues.

## What Attorneys Should Know

For plaintiffs, this means avoiding legalese and translating jury instructions into concepts jurors already understand, such as selfishness or causing harm. For the defense, success depends on jurors' understanding of how the applicable law defines bad faith and how each element must be met. Visual aids are particularly effective in explaining these layered legal requirements and reinforcing the key arguments.



## Why Framing Is Critical

Ultimately, verdicts in bad faith litigation often turn on whether jurors apply the law as written or rely on instinct to make decisions. Effective trial advocacy bridges that gap by translating legal standards into clear, juror-centered narratives that keep deliberations grounded in the court's instructions.

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