

IN THE SUPREME COURT OF TEXAS

=====
No. 17-1048
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OSCAR ORTIZ, PETITIONER,

v.

STATE FARM LLOYDS, RESPONDENT

=====
ON PETITION FOR REVIEW FROM THE
COURT OF APPEALS FOR THE FOURTH DISTRICT OF TEXAS
=====

JUSTICE BOYD, concurring in part and dissenting in part.

In this insurance-coverage case, the Court holds that the insurer’s payment of the appraisal amount, which established the covered loss, precludes a claim that the insurer breached the policy by failing to pay the covered loss. The Court also holds that the insurer’s payment bars extracontractual bad-faith claims that seek damages totaling no more than the covered loss. I agree with these conclusions and join those parts of the Court’s opinion. I write separately to distinguish my view on the insured’s claim under the Texas Prompt Payment of Claims Act. *See* TEX. INS. CODE §§ 542.051–.061. The Court holds that the insured may proceed on this claim in light of our concurrently issued decision in *Barbara Techs. Corp. v. State Farm Lloyds*, No. 17–0640, — S.W.3d — (Tex. June 28, 2019). There, in a similar factual context, the Court remands to the trial court for further proceedings to determine whether the insured’s claim is “invalid” and “should not be paid” or whether the insurer “is liable” under the policy. *See id.* at ___ (discussing TEX. INS. CODE §§ 542.058, .060). As explained in my separate opinion in that case, I would hold that section

.058 applies and section .060 does not, and that—regardless of which section applies—the insurer conceded the claim’s validity and its own liability by voluntarily and unconditionally paying the benefits claimed. Thus, I would remand solely to determine the amount of statutory interest and attorney’s fees the insurer owes the insured. *See id.* at ___ (BOYD, J., concurring in part and dissenting in part). Because I would do the same here, I respectfully concur in part and dissent in part in this case as well.

Jeffrey S. Boyd
Justice

Opinion delivered: June 28, 2019