

Index

A

ABATEMENT

Generally, §§ 5:17, 11:24

ABSTENTION

Brillhart doctrine, § 5:57

Rooker-Feldman doctrine, § 5:57

ACTIONS BY PRIMARY

CARRIERS

Property carriers recoup from insureds

Mortgagors, § 7:20.50

ACTUAL CASH VALUE (ACV),

§§ 11:1, 13:6

ADJUSTERS

Generally, §§ 3:2, 3:20, 3:38, 9:5

Advice of counsel, § 5:57

Affirmative defenses pleading requirements, §§ 5:57, 11:24

Objective documentation of files recommended, §§ 3:19, 3:25

Personal characteristics of insured, references to, §§ 3:18, 3:19

Personal liability under criminal and civil statutes, §§ 3:17, 7:5

Personnel file, discovery of, § 12:23

Settlement under third-party policies

counsel, evidentiary effects of advice of, §§ 3:76, 5:10

counsel, when required to consider advice of, §§ 3:19, 3:46, 3:50, 3:51, 5:10

ADJUSTERS—Cont'd

Settlement under third-party policies—Cont'd

defense termination provisions, recommend prohibition on consideration of, § 3:51

Standards to govern behavior,

objective, §§ 3:2, 3:16, 3:29, 3:51, 3:52, 3:100, 3:101, 5:2

ADVICE OF COUNSEL, § 5:57

AFFIRMATIVE DEFENSES

PLEADING

REQUIREMENTS, §§ 5:57, 11:24

ALLOCATION, § 3:6

ANTI-INJUNCTION

PROVISION, § 5:57

APPEALS

Inadequate conduct of third-party insured's defense, relation to, §§ 3:84, 3:86, 3:89, 3:93

Settlement bad faith of third-party insurer, relation to, §§ 3:1, 3:84, 3:85, 3:88, 3:90

Standards of good faith more exacting, §§ 3:1, 3:83, 3:85

Wrongful refusal to defend third-party insured, relation to, §§ 3:84 to 3:86

APPELLATE COURTS

Extraordinary writs, challenging sufficiency of bad faith complaint, §§ 11:24, 12:5

LITIGATION AND PREVENTION OF INSURER BAD FAITH

**APPORTIONMENT, §§ 3:55,
3:69, 3:100, 13:3, 13:4**

APPRAISAL

Satisfying condition precedent of
bad faith lawsuit, § 11:24

ARBITRATION, §§ 5:57, 11:24

ARTIFICIAL INTELLIGENCE

Determination of liability insur-
ance and resolution of claims,
§ 3:114

Effects on Insurance, § 9:5.50

Risks in use, not easily calculated
or foreseen, § 3:115

**ATTORNEY-CLIENT
PRIVILEGE IN ACTION
FOR INSURER BAD FAITH**

In camera inspections, § 8:18

**ATTORNEY
DISQUALIFICATION**

First-Party Bad Faith Cases,
§ 9:32.50

B

BAD FAITH

Insurer claims and actions, long-
term prospects, § 2:11

BIFURCATE, § 11:24

C

**CHINESE DRYWALL, §§ 3:112,
9:31**

**CHOICE OF LAW, §§ 5:57, 7:5,
11:15**

**CIVIL REMEDY NOTICE (OF
INSURER VIOLATION),
§§ 3:30, 5:57, 9:21, 11:24**

**COBLENTZ AGREEMENT,
§§ 3:30, 5:3, 5:26, 7:2**
Comparative bad faith, §§ 5:6.50,
5:27.50, 5:40.50, 11:16.50,
11:24

**COBLENTZ AGREEMENT,
§§ 3:30, 5:3, 5:26, 7:2**
—Cont'd

Contributory negligence, § 5:57

**COMPARATIVE BAD FAITH,
§§ 5:3.50, 5:6.50, 5:27.50,
5:40.50, 11:16.50, 11:24**

**CONTRIBUTORY
NEGLIGENCE, § 5:57**

**COVID-19, §§ 3:112, 5:59, 9:14,
9:31, 11:27**

**CUNNINGHAM AGREEMENT,
§§ 3:101, 12:23**

E

ERISA, §§ 9:16, 12:6, 13:1

**ESI (“ELECTRONICALLY
STORED INFORMATION”)**
Discovery of, § 12:22

**EXCESS INSURERS AND
INSURANCE POLICIES**

Direct duty owed by defense
counsel provided or retained
by primary carrier, § 5:38

**EXEMPTIONS FROM
STATUTORY LIABILITY,
§ 11:17.50**

Exhaustion of administrative rem-
edies, § 11:24

Exhaustion of limits, order of
discretion as defense, § 11:24

**EXHAUSTION OF
ADMINISTRATIVE
REMEDIES, § 11:24**

**EXHAUSTION OF LIMITS,
ORDER OF**
Discretion as defense, § 11:24

INDEX

EXPERT WITNESSES IN ACTIONS FOR INSURER BAD FAITH

Court appointed, § 12:18
Mediations, roles before and during, § 12:19

EXTRAORDINARY WRITS, § 11:24

F

FALSE CLAIMS ACT, § 3:113

FILED RATE DOCTRINE, §§ 11:26, 11:26.50, 11:26.75

FINANCIAL INSTITUTIONS REFORM, RECOVERY, AND ENFORCEMENT ACT OF 1989 (“FIRREA”), § 3:113

FIRST-PARTY BAD FAITH CASES

Attorney disqualification,
§ 9:32.50

FLOOD INSURANCE, §§ 9:16, 11:22

Fraudulent joinder, § 5:57

FRAUDULENT JOINDER, § 5:57

G

GIST OF THE ACTION DOCTRINE, § 11:24

GOOD FAITH

Insurer bad faith claims and
actions, long-term prospects,
§ 2:11

H

HEALTH INSURANCE

Effects of Artificial Intelligence,
§ 9:5.50

I

IMMUNITIES, §§ 5:57, 11:24

INFORMATION ASYMMETRY, §§ 3:1, 9:5

INJURY IN FACT

Bad faith statutes
Pleading and proof of general
business practice,
§ 9:14.75

J

JUDICIAL ESTOPPEL, § 11:24

K

KICKBACKS, §§ 9:15, 9:34, 9:35

“KNOWN LOSS”

Defense in third-party cases, treatment in, § 5:57

L

LIABILITY INSURANCE AND RESOLUTION OF CLAIMS

Artificial Intelligence, § 3:114

M

MALPRACTICE, LEGAL

Causes of action, claims by primary and excess carriers,
§§ 3:71, 5:38

McCarran Ferguson Act, §§ 5:57,
11:24

MEDIATION

Expects involvement in, § 12:18
Mortgage servicer, §§ 9:34, 9:35
Privilege, discovery and confidentiality, § 12:19

LITIGATION AND PREVENTION OF INSURER BAD FAITH

MORTGAGORS

Actions by primary carriers
Property carriers recoup from insureds, § 7:20.50

MULTI-DISTRICT LITIGATION
("MDL"), §§ 3:107.100, 9:28

N

NO INSURANCE COVERAGE,
NO BAD FAITH, §§ 3:7, 3:28,
9:1, 9:14

NONDISCLOSURE
AGREEMENTS
Generally, §§ 3:107.75, 9:28.75

P

PREEMPTION
First-party insurers,
extracontractual liability of,
§ 11:25
Third party insurers,
extracontractual liability,
§ 5:57

PREMATURITY, §§ 5:1, 5:57,
11:1, 11:24

PROPERTY INSURANCE
Post-loss assignment of coverage
claims, third-parties, § 7:2.50

PROTECTIVE ORDERS,
CONSTITUTIONALITY
Roles of local rules and standard
protective orders,
§ 3:107.100
Practices to public access, avoid
concealing third party bad
faith claims, § 3:107.50

PROVIDED OR RETAINED
DEFENSE COUNSEL
Causes of action, claims by pri-
mary and excess carriers,
§§ 3:71, 5:38

R

RELEASE
Defense, §§ 5:58, 11:20
Purpose of obtaining, §§ 3:20,
3:102

REMOVAL, §§ 5:57, 11:23, 11:24

REPLACEMENT COST VALUE
(RCV), § 13:6

RES JUDICATA, §§ 5:57, 11:24

RISKS UNFORESEEN
Artificial Intelligence, § 3:115

S

SECRECY, §§ 3:107, 9:28
Constitutional arguments,
§§ 3:107.100, 9:28.100

SELF-INSURED RETENTIONS
Generally, §§ 3:105, 6:3

SETTLEMENT BY
THIRD-PARTY INSURED
Coblentz agreement, §§ 3:50, 5:3,
5:26, 7:2
Cunningham agreement, §§ 3:101,
12:23
Damron agreement, § 3:50
Morris agreement, § 3:50

SEVERANCE, § 11:24

STATUTORY LIABILITY,
EXEMPTIONS FROM,
§ 11:17.50

STAY, § 11:24

STIPULATED PROTECTIVE
ORDERS
Generally, §§ 3:107, 3:107.50,
3:107.75, 9:28

INDEX

**STIPULATED PROTECTIVE
ORDERS—Cont'd**

Role of local rules and standard
protective orders,
§§ **3:107.100, 9:28.50**

Practices to public access, avoid
concealing third party bad
faith claims, § **3:107.50**

V

VENUE, §§ 5:57, 11:24

VICARIOUS LIABILITY FOR

**INADEQUATE DEFENSE,
§§ 3:71, 3:86**

**VOLUNTARY PAYMENT
DOCTRINE, § 11:25**

W

WAIVER, § 5:15

WASTING POLICY

Defined, § **5:20**