The Rutter Group California Practice Guide: Insurance Litigation

What's New or Updated 2026

For the 2026 Edition of ***Insurance Litigation***, the authors have added new material and/or updated existing material based on relevant case and statutory law developments, including, but not limited to, the following subjects:

- **Under Review – Role of Extrinsic Evidence in Interpreting Insurance Policy:** The role of extrinsic evidence in the interpretation of an insurance policy is currently under review by the California Supreme Court (*Montrose Chemical. Corp. of California v. Sup.Ct.* (*Canadian Universal Ins. Co.*, review granted 12/30/25)
- **Amended Insurance Code Provisions:** Effective January 1, 2026, proof of loss requirements for a loss relating to a state of emergency have been amended. Insurers shall not require insureds to submit proof of loss less than 100 days after the loss, and they must provide one or more additional extensions of three months for good cause if the insured, acting in good faith and with reasonable diligence, encounters a delay in providing proof of loss that is beyond the insured's control (Ins.C. §2051.5(b)(3) (eff. 1/1/26))
- **Liability of ERISA Third Party Plan Administrators:** An ERISA third party administrator may be liable under §1557 of the Affordable Care Act for enforcing sex-based exclusions from coverage even when it is implementing plan terms drafted by an employer ERISA plan sponsor. ERISA does not require third party administrators to implement unlawful plan terms (*Pritchard on behalf of C.P. v. Blue Cross Blue Shield of Ill.*)
- **Jury Findings:** The effect of jury findings against the insured in an underlying action on the insured's coverage lawsuit against its insurer (*State Farm Fire & Cas. Co. v. Diblin*)
- **Doctrine of Independent Concurrent Causes:** Negligent mismanagement of medication resulting in drug-induced aggression and violence was not a true concurrent cause of victim's injuries, thus coverage was denied (*State Farm Fire & Cas. Co. v. Diblin*)
- **Under Review – Fair Plan Liability Coverage:** The California Supreme Court will decide whether the Insurance Commissioner may require the California FAIR Plan to offer an expanded homeowner insurance policy that includes liability coverage with respect to the insured property (*California FAIR Plan Ass'n v. Lara*, review granted 3/11/26)
- **Insurance Class Actions:** Where there are common issues of liability in a class action brought by insureds, the fact individual determination of damages is required does not necessarily preclude class certification (*Cobos v. National Gen. Ins. Co.*)

Please refer to the "Update Highlights" for a more comprehensive summary of the most significant developments in this edition where these topics are discussed in more detail.