

## **Comments to California Judicial Council on CACI No. 2334**

Year: 2017

Court:

Case Number:

UP submitted comments to the California Judicial Council in response to proposed changes to California Civil Jury Instruction 2234 – Bad Faith (Third Party)—Refusal to Accept Reasonable Settlement Within Liability Policy Limits—Essential Factual Elements. UP pointed out four areas where the instruction needs revision: (1) the instruction should be modified when the underlying proceeding at issue in the bad faith case is something other than a traditional lawsuit; (2) “Policy limits” should be defined as the highest amount available under the policy [or if there are multiple available policies, the total amount of insurance available under all such policies] for the claim against the plaintiff; (3) the instruction should be modified so as to not confuse and mislead the jury into finding bad faith failure to settle arises only if there has been an excess judgment; and (4) the instruction should make clear that the insurer need not have affirmatively rejected a reasonable demand in order to be found liable for bad faith failure to settle.

UP's comments were authored pro bono by David B. Goodwin, Esq. and Michael Greenberg, Esq. of Covington and Burling LLP