

# WASHINGTON INSURANCE LAW LETTER™

*A SURVEY OF CURRENT  
INSURANCE LAW AND  
TORT LAW DECISIONS*

edited by William R. Hickman

---

---

## 1998 INDEX TO VOLUME XXII

SUBJECT MATTER INDEX	PAGE	1
TITLE INDEX	PAGE	4
TABLE OF CASES	PAGE	6

---

Published and Distributed by:

REED McCLURE  
ISSN 1064-1378  
3600 Columbia Center, 701 Fifth Avenue  
Seattle, Washington 98104-7081  
206/292-4900  
© 1999

THIS NEWSLETTER IS PROVIDED AS A FREE SERVICE for clients and friends of the Reed McClure law firm. It contains information of interest and comments about current legal developments in the area of tort and insurance law. This newsletter is not intended to render legal advice or legal opinion, because such advice or opinion can only be given when related to actual fact situations.

The entire contents are copyrighted. All information as to permission to copy may be obtained from Alissa Panzer at 206/386-7149; Fax: 206/223-0152; E-mail: [apanzer@rmlaw.com](mailto:apanzer@rmlaw.com).

CHANGE OF ADDRESS: Please call Mark Sarbach at 206/386-7094; Fax: 206/223-0152; E-mail: [msarbach@rmlaw.com](mailto:msarbach@rmlaw.com).

# SUBJECT MATTER INDEX

PAGE

Accidental Rape .....	51
Allocation of Fault Statute .....	33
Ambiguity – Defined .....	20
Arbitration	
– Court’s Jurisdiction .....	8
– Secret – Private .....	58
Armageddon .....	52
Assumption Of Risk	
– Implied .....	15
– Types .....	35
Bad Faith	
– Elements .....	5, 25
– Tort .....	25
Bad Faith Investigations .....	47
Bad Faith Mistakes .....	47
Bodily Injury .....	49
Breach of the Cooperation Clause .....	42
Business Invitee – Duty .....	56
Business Pursuit .....	31
<b>Butler</b> .....	5
Caskets .....	45
Collateral Estoppel – Elements .....	58
Cooperation Clause .....	1, 43
Continuing Damage .....	28
Corpses .....	45
Coverage – Estoppel .....	25, 47
Coverage Trigger .....	28
Crime .....	42
Criminal Acts Exclusion .....	20
Duty of Good Faith .....	5



## SUBJECT MATTER INDEX

PAGE

Duty To Defend .....	25
Emotional Distress .....	49
Emotional Distress Damages .....	4
Express Assumption of Risk .....	15
Exclusions .....	30
Failure to Cooperate .....	43
Felony Exclusion .....	12
Fraud .....	1, 42
Good Faith Mistakes .....	47
Implied Covenant of Good Faith .....	47
Information – Material – Defined .....	42
Insurance Policy Construction .....	13, 20, 21
Intentional Tort – No Fault .....	33
It's Not My Fault .....	33
Known Loss Doctrine .....	6
Known Risk .....	6
Loss in Progress Rule .....	6
Mandatory Arbitration .....	37
Material Information – Defined .....	42
Migrant Worker Exclusion .....	11
<b>Nevers</b> .....	37
Negligence – Elements .....	55
No-Allocation Rule .....	29
No Harm, No Foul .....	47
Occurrence .....	28
– Defined .....	21
– Time of Damage .....	22
PIP Subro Claim .....	52
Policy Interpretations .....	30
Pollution Coverage .....	21



## SUBJECT MATTER INDEX

PAGE

Possibility of Fraud .....	43
Prejudice – Matter of Law .....	44
Presumption of Harm .....	47
Procedural Errors .....	5
Punitive Damages .....	3
Res Ipsa – Elements .....	56
Reservation of Rights .....	59
Resident - Child .....	16
Shrubbery .....	3
Stipulated Facts .....	13
Strict Compliance .....	38
Subrogation .....	53
Substantial Compliance .....	38
Suspicious Loss .....	2
Tax Return – Not Privileged .....	43
Time of Damage – Occurrence .....	22
Tort – Elements .....	34
Trespass .....	3
Trial De Novo .....	37
Truth Finding Function – Hobbled .....	32
UIM	
– Arbitration .....	57
IM – Bodily Injury .....	50
UIM – Collateral Estoppel .....	57
UIM – Emotional Distress .....	50
– Liability Limits Setoff .....	18
– “Living With” .....	16
– PIP Setoff .....	8
– Resident .....	16
Unilateral Stipulated Judgments .....	59
Y2K .....	60



TITLE INDEX

PAGE

AN AIRY ILL WIND ..... 25

AND NOW FOR SOMETHING COMPLETELY DIFFERENT — PART II .... 12

AND THERE GOES ACID DOWN THE DRAIN ..... 21

ARMAGEDDON — POSTPONED FOR NOW ..... 52

BOYS WILL BE BOYS ..... 17

CLEAR, CLEARER, CLEAREST ..... 8

CRIMINAL ACTS EXCLUDED ..... 20

DEATH OF A DETECTIVE ..... 35

DO YOU KNOW WHERE YOUR CHILD RESIDES? ..... 16

DOUBLE DIPPING DISALLOWED ..... 17

DOWN AND DIRTY ..... 27

DUMB, DUMBER, DUMBEST ..... 48

EMOTIONAL DISTRESS IS NOT BODILY INJURY ..... 49

FOR IT'S NO WAY NEVERS; NO NO NEVERS NO MORE ..... 37

FOSTERING A PROFIT ..... 30

FULL LIABILITY SET OFF ..... 18

THE GOOD, THE BAD, AND THE MUD ..... 46

KNOWN LOSS DOCTRINE ..... 6

A LEAKY BOX ..... 22

LIABILITY FOREVER ..... 7

MIGRANT WORKERS EXCLUSION DOES NOT STAND UP ..... 11

MINIMIZING THE BITE OF THE MILLENNIUM BUG ..... 60

MOMMIE DEAREST FOILED AGAIN ..... 10



TITLE INDEX

PAGE

NO COVERAGE; NO BAD FAITH ..... 5

REED McCLURE HONORS WILLIAM R. HICKMAN  
FOR 30 YEARS OF SERVICE ..... 39

RES FAILS TO BREAK MUSTARD'S FALL ..... 55

RIVER OF THE LIVING DEAD ..... 45

SEX, SLIDES, AND THE CONCRETE MOTEL ..... 34

THE SKI RELEASE RELEASE ..... 14

STIPULATING AWAY COVERAGE ..... 59

TAKING ANOTHER BITE OUT OF CRIME ..... 1

TAKING A REALLY BIG BITE OUT OF CRIME ..... 41

THAT'S NO ACCIDENT ..... 51

A .38 SPECIAL NO FAULT ..... 33

"TRUTH! WHAT IS TRUTH?" ..... 32

WHAT YOU DON'T KNOW CAN REALLY HURT YOU ..... 57

WOODMAN SPARE THAT TREE ..... 3



## TABLE OF CASES

PAGE

Abernathy v. City of Albany, 269 Ga. 88, 495 S.E.2d 13 (1998) .....	45
Adams v. Great Amer. Ins. Cos., 87 Wn. App. 883, 942 P.2d 1087 (1997) .....	16
Allstate Ins. Co. v Batacan, No. 20035-0-II, 1997 WL 778873 (Wash. App. Dec. 19, 1977) .....	20
Allstate Ins. Co. v. Peasley, 131 Wn.2d 420, 932 P.2d 1244 (1997) .....	21
American National Fire Ins. Co. v. B & L Trucking, 134 Wn.2d 413, 951 P.2d 250 (1998) .....	27
American Reliance Ins. Co. v. Perez, 712 So.2d 1211 (Fla. App. 1998)....	59
Blue Ridge Ins. Co. v. Stanewich, No. 96-55839, 1998 U.S. App. LEXIS 7853 (9th Cir. Apr. 24, 1998) .....	35
Birchler v. Castello Land Co., Inc., 133 Wn.2d 106, 942 P.2d 968 (1997) .....	3
City of Redmond v. Hartford Acc. & Indem. Ins. Co., 88 Wn. App. 1, 943 P.2d 665 (1997) .....	21
Coventry Assocs. v. American States Ins. Co., 86 Wn. App. 845, 939 P.2d 1245 (1997) .....	5
Coventry Associates v. American States Ins. Co., No. 65850-1, 1998 WL556296 (Wash. Sept. 3, 1998) .....	46
Daley v. Allstate Ins. Co., 135 Wn.2d 777, 958 P.2d 990 (1998) .....	49
Eubanks v. State Farm Fire and Cas. Co., 485 S.E.2d 870, rev. denied, 493 S.E.2d 452 (N.C. Ct. App. 1997) .....	10
Fisher v. Allstate Ins. Co., ___ Wn.2d ___, 961 P.2d 350 (1998) .....	57
Haugen v. Lazy K Enterprises, No. 15049-6-III, slip op. (Wash. App. Mar. 19, 1999) .....	34
Hillhaven Properties Ltd. v. Sellen Const. Co., Inc., 948 P.2d 796 (Wash. 1997) .....	6
Johnson v. NEW, Inc., 948 P.2d 877 (Wash. App. 1997).....	14
Johnson v. Weyerhaeuser Co., 134 Wn.2d 795, 953 P.2d 800 (1998).....	32
Kirk v. Mt. Airy Ins. Co., 134 Wn.2d 558, 951 P.2d 1124 (1998) .....	25
Mahler v. Szucs, 135 Wn.2d 398, 957 P.2d 632 (1998) .....	52
Mendoza v. Rivera-Chavez, 88 Wn. App. 261, 945 P.2d 232 (1997) .....	11



## TABLE OF CASES

PAGE

Mustard v. Pearce, No. 16831-0-III, slip op. (Wash. App. July 21, 1998) .....	55
Nationwide Ins. v. Board of Trustees of the Univ. of Illinois, 116 F.3d 1154 (7th Cir. 1997) .....	17
Nevers v. Fireside, 133 Wn.2d 804, 947 P.2d 721 (1997) .....	37
Pilgrim v. State Farm Fire & Cas. Co., No. 38549-6-I, unpublished slip op. (Wash. App. Sept. 22, 1997) .....	1
Price v. Farmers Ins. Co., 946 P.2d 388 (Wash. 1997) .....	8
Roberts v. Safeco Ins. Cos., 87 Wn. App. 604, 941 P.2d 668 (1997) .....	17
Ross v. State Farm Mut. Auto. Ins. Co., 132 Wn.2d 507, 940 P.2d 252 (1997) .....	12
Stuart v. American States Ins. Co., 134 Wn.2d 814, 953 P.2d 462 (1998) .....	30
Tran v. State Farm Fire & Cas. Co., ___ Wn.2d ___, 961 P.2d 358 (1998) .....	41
20th Century Ins. Co. v. Stewart, 63 Ca. App. 4th 1333, 74 Cal. Rptr. 2d 492 (1998) .....	48
Valiant Ins Co. v. Hamilton Funeral Services Centers, 926 F. Supp 127 (W.D. Ark. 1996) .....	22
Wal-Mart Stores, Inc. v. Reinholtz, 955 P.2d 223 (Okla. 1998) .....	51
Welch v. The Southland Corp., 134 Wn.2d 629, 952 P.2d 162 (1998) ....	33
Young v. Est. of Snell, No. 64165-0, 1997 WL 786838 (Wash. Dec. 24, 1997) .....	7

