

ALERT

# Judgment Creditor Asserting Statutory Bad Faith Claim Entitled to Discover Other Bad Faith Allegations Against Insurers

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March 14, 2012

A federal district court, applying Connecticut law, has held that a judgment creditor with a judgment against her insured former employer was entitled to seek discovery from the employer's insurers regarding any allegations that the insurers had committed bad faith claims handling practices because such evidence would support the judgment creditor's cause of action asserting that the insurers had a "general business practice" of unfair claims settlement in violation of the Connecticut Unfair Insurance Practices Act (CUIPA). *Tucker v. American International Group, Inc.*, 2012 WL 685461 (D. Conn. Mar. 2, 2012).

After the judgment creditor obtained a \$4 million judgment against her former employer, the insured, she sued the employer's insurers seeking to recover the judgment. The judgment creditor also alleged that the insurers had a "general business practice" of unfair claims settlement that violated the CUIPA. The judgment creditor then sought to depose several witnesses for the insurers on the subject of "[a]ny allegations of bad faith or reckless claims handling practices against [the insurer] and/or its subsidiaries prompting any internal review of claims handling practices at any time from 2004 to the present." After a discovery dispute, the court granted discovery on the topic.

In a motion for reconsideration of the court's discovery order, the insurers argued that allegations of bad faith claims handling were insufficient to prove that the insurers had a general business practice that violated the CUIPA. To support their position, the insurers asserted that courts had struck allegations in a complaint that referred to bad faith allegations in other lawsuits where those

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lawsuits were not resolved on the merits. The court rejected the argument, reasoning that evidence of allegations of bad faith conduct against the insurers in handling other claims was reasonably calculated to lead to evidence of the insurers' actual business practices for purposes of proving a CUIPA violation. The court therefore affirmed the order granting the judgment creditor the requested discovery.