

Involuntary Assignment of a Bad Faith Claim Against an Insurer is Invalid

In *State Farm Mut. Auto Ins. Co. v. Estep*, 873 N.E.2d 1021 (Ind. 2007), the Indiana Supreme Court rendered an important decision which should curb the abusive practices employed by plaintiffs' personal injury attorneys in asserting potential bad faith claims against insurance companies. State Farm's insured was involved in an accident giving rise to a serious wrongful death claim. State Farm retained panel counsel and repeatedly offered to settle for the policy limits of \$50,000. Plaintiff repeatedly rejected the policy limit settlement offers, and obtained a \$680,000 judgment. In proceedings supplemental, the court ordered the insured to assign any bad faith claim against State Farm to the plaintiff. The insured protested that he did not believe that State Farm had acted in bad faith, as the company fully defended him and repeatedly offered to settle for policy limits. The trial court, nonetheless, ordered an involuntary assignment of potential bad faith claims, and the plaintiff filed an action against State Farm for bad faith based on an alleged attorney conflict of interest. However, the Indiana Supreme Court wisely noted that such an involuntary assignment contravenes the direct action rule which prohibits tort plaintiffs from suing the insurance companies directly in the first instance. The decision should prevent tort plaintiffs with an unrecoverable judgment from taking assignments from insured where the insured has not first personally directed allegations of bad faith against the insurer.