

## **Insurer's Duty of Good Faith Extends to All Insureds in Multiparty Litigation**

Posted on December 1, 2009 by [Gary A. Bresee](#)

**An insurer's duties become complicated when litigation is pending against more than one of its insureds. In general, an insurer may have a duty to accept a settlement offer made within policy limits, but in the case where more than one of the insureds is sued, how is that duty affected when a CCP Section 998 settlement offer is made to only *one* of the insureds?**

**The question was answered by the First Appellate District in [Kauffman v. California State Automobile Association](#) (2009) No. A123494 (unpublished). The son and his parents were all insured under an automobile policy, so when he caused an accident, the plaintiffs sued not only the son, but the parents for "negligent entrustment of the car" to their son.**

**Plaintiffs then made a policy limits demand to the son alone, using an offer of compromise under CCP Section 998. The offer was rejected. Plaintiffs eventually entered into a complex settlement agreement where the son assigned any rights he may have had against the carrier to the Plaintiffs. In Plaintiffs' subsequent suit against the insurer, the appellate court decided, first, that the 998 Offer did not create the requisite conflict of interest triggering the carrier's duty to appoint separate counsel, or *Cumis* counsel, under Civil Code section 2860.**

**More importantly, the court rejected the argument that the carrier acted in bad faith by refusing to accept the 998 Offer. In fact, the carriers' *acceptance* of the 998 Offer for the full policy limits would have been bad faith to the remaining insureds; i.e., the parents. The insurer's duties extend to *all* of its insureds, and the carrier cannot favor one insured over another. Because the 998 Offer was for the full policy limits, agreeing to settle on the son's behalf would have left the parents completely exposed. Consequently, the court found no bad faith under these facts.**