

UM/UIM and Bad Faith Claims: Severance Options for Insurers

After the Pennsylvania Supreme Court's decision in *Insurance Federation of Pennsylvania v. Koken*, 889 A.2d 550 (Pa 2005), automobile insurers in Pennsylvania are not required to provide for mandatory arbitration within UM/UIM coverages. Now, UM/UIM claims are routinely being litigated in the courts. As a result, insurers are now frequently being faced with the dilemma of defending a lawsuit asserting a bad faith claim along with the insured's UM/UIM coverage claim. Insurers are also for the first time being joined as defendants in the insured's third-party action against the alleged tortfeasor.

The full effect of *Koken* has yet to be realized, particularly in the bad faith arena. It is clear, however, that insurers will now need to carefully consider severance of issues or causes of action in order to protect the fairness and integrity of the determination of the claimant's entitlement, if any, to UM/UIM benefits.

Attached is a link to a paper written by **Richard McMonigle** and **Michael Farrell** of our Insurance Law Department entitled "**Severance Issues in a Post-Koken Era: The Defense Perspective.**" In this paper, presented at the Pennsylvania Bar Institute's Bad Faith Litigation seminar in Philadelphia on July 9, 2009, we provide a defense perspective as to these new and challenging issues.

If you have questions or would like additional information, please feel free to contact Richard McMonigle at (215) 587-1019 or rmcmonigle@postschell.com, or Michael Farrell at (215) 587-1050 or mfarrell@postschell.com.

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