

THOUGHT LEADERSHIP

News

## MDJW WINS BACK-TO-BACK BAD FAITH TRIALS

Newsbrief

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Last week, USAA won a bad faith trial in Austin, Texas arising out of a tort claimant's attempts to collect on a large default judgment against a USAA member. James Krimbill was involved in an auto accident with Barbara Sloan, a USAA insured, in Austin on Christmas Eve 2006. Sloan gave no notice to USAA of the accident, but the claimant did. USAA paid the property damage claim of the claimant and tried to negotiate a settlement of the bodily injury claims. Krimbill eventually sued Sloan for the negligent entrustment of her vehicle to the driver who caused the accident, but Sloan failed to forward those suit papers to USAA and she never asked for a defense. She never returned repeated phone calls from USAA or replied to multiple letters from her insurer. Krimbill then took a large default judgment against Sloan, filed a turnover action to take over her insurance rights against USAA, and then brought a bad faith claim in Travis County against USAA. It went to trial last week in Austin.

After jury selection, the plaintiff presented its case over the course of several days. After Plaintiff rested, USAA moved for a directed verdict arguing that prejudice existed as a matter of law under these circumstances and Plaintiff's contract and bad faith claims could not go to the jury. After extensive argument and deliberation, Judge Rhonda Hurley of the 98th District Court of Travis County granted USAA's motion for directed verdict and ruled in its favor on all claims.

Chris Martin from the firm's Houston office tried the case along with Patrick Kemp and Rob Russell from the firm's Austin office. We wish to congratulate USAA on its win and for having the courage to stand on its rights and try this case. It was the firm's second win in a Texas bad faith trial in the last two weeks.