



Publications

"WILL YOU DANCE WITH ME?: AN INSURER'S DUTY TO INITIATE SETTLEMENT NEGOTIATIONS," DRI'S THE VOICE

"Proposed Section 24 of the current Council Draft of the American Law Institute's (ALI) Restatement of the Law on Liability Insurance, which will be presented for final vote at the next ALI meeting in May 2018, advances a reasonableness' standard for insurers' settlement decisions" - in essence, a suggestion that it is "an insurer's general duty to initiate settlement negotiations on behalf of its insured, even in the absence of a settlement demand by the tort claimant," Goldberg Segalla Global Insurance Services partner Jonathan L. Schwartz and associate Bradley R. Ryba write in DRI's *The Voice*. "However," they explain, "this manufactured duty stands in stark contrast to the rule in the majority of jurisdictions. In fact, few jurisdictions impose upon insurers an affirmative duty to make a settlement offer, but only in limited circumstances." In their article, they discuss decisions that *have* imposed upon insurers an affirmative duty to initiate settlement negotiations, and lay out a case that the ALI's proposed rule "will have have harsh and unintended consequences for the insureds this rule is designed to protect."

"As the ALI speeds to final confirmation, proposed Section 24 still has room for clarification and improvement," Jonathan and Bradley argue. "Hopefully the judiciary will recall that for settlement negotiations, like ballroom dance, it really does take two willing participants to tango."

Read the article:

"Will You Dance With Me?: An Insurer's Duty to Initiate Settlement Negotiations ," DRI's *The Voice*, April 11, 2018

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