

HANDLING UNINSURED & UNDERINSURED MOTORIST CLAIMS

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DÉJÀ VU ALL OVER AGAIN – RE-LITIGATING 2021



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1. CARRIERS ARE TRYING TO REVERSE AND TO RE-WRITE THE HOLDINGS OF THE TEXAS SUPREME COURT FROM *IN RE STATE FARM* (2021).
2. CARRIERS HAVE MADE IT CLEAR THEY WANT TO REVERSE *ALLSTATE v. IRWIN* (TEX. 2021).
3. IF CARRIERS CANNOT REVERSE *ALLSTATE v. IRWIN*, THEY ARE EMPLOYING A REMOVAL DEFENSE STRATEGY TO AVOID AWARDS OF ATTORNEY'S FEES.
4. CARRIERS ARE FIGHTING THE RIGHT OF INSURED TO OBTAIN EVEN A LIMITED SCOPE DEPOSITION OF THE CORPORATE REPRESENTATIVE DESPITE THE HOLDINGS OF THE TEXAS SUPREME COURT'S DECISION *IN RE USAA GENERAL INDEMNITY* (TEX. 2021).



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SEVERANCE AND
BIFURCATION

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In re State Farm Mut. Auto. Ins. Co.
629 S.W.3d 866 (Tex. 2021).

Plaintiff-insured sued only for extra-contractual damages.

The insurer sought to bifurcate to require plaintiff to prove legal entitlement to contract damages *before* a trial for extra-contractual damages.

Plaintiff contended: nothing to bifurcate here!

The court held that bifurcation, *the only remedy requested by the insurer*, was required in this situation.

Court cited and relied on cases requiring severance and abatement of extra-contractual cases.

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**The issue:
If Plaintiff-insured sues *ONLY* for
extra-contractual damages arising
out of a UIM claim—is there
anything to sever (or bifurcate)?**

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Title search: Handling Uninsured & Underinsured Motorist Claims

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First appeared as part of the conference materials for the
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"Important Cases in the Prosecution and Defense of UM / UIM Cases Session"