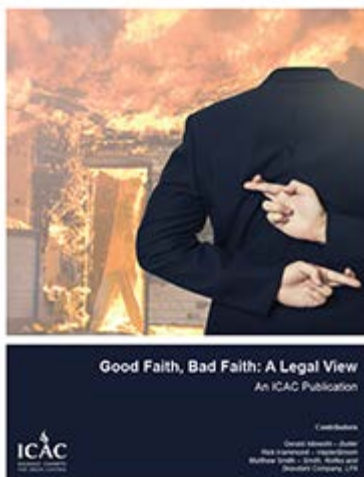


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## Good Faith, Bad Faith: A Legal View

“Bad Faith is an issue which every insurer needs to consider. From training of personnel through litigation strategy, acting with the utmost of Good Faith should always guide how every claim is handled. Not doing so means we failed ourselves and those who place their trust in us.”

— Matthew J. Smith, co-author of Good Faith/Bad Faith: A Legal Review

To access the report and read more comments from Matt, [click here](#).

### In this issue:

#### Case Law

### Member Spotlight

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At Niles Barton & Wilmer, LLP, the trust of our clients is our greatest asset. In fact, the history of our firm has been built on it. We've earned and kept that trust by finding the right, most practical answers to clients problems and issues, providing candid advice, keeping them informed every step of the way and being responsive to their needs.

## Case Law

### BLEVINS V. ALLSTATE PROPERTY & CASUALTY INSURANCE CO

On a motion to dismiss a claim of bad faith the court reviews several fact issues and concludes with the following...“whether the coverage decision (i.e., the breach of contract claim) by Allstate was correct is not now before this Court. Rather, at bar is whether any genuine issues of material fact preclude a ruling on whether, as a matter of law, the claim was “fairly debatable”. None do. As described, the conclusions of the expert, as well as the conflicting testimony of the Blevins family, are not in dispute, and this Court finds these “facts” adequate to support Defendant's decision that the cause of the fire in the utility room was “fairly debatable.”

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### MCKEAN V. NATIONWIDE INSURANCE COMPANY

A case challenging several evidentiary rulings by the trial court — all challenges dismissed by the appellate court include a challenge that the defendants were not allowed

to use an article from *Fire & Arson Investigator*, a journal published by the International Association of Arson Investigators, to cross examine Nationwide's fire and arson expert.

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## LUNA V. COMMONWEALTH

Interesting and detailed review of a challenge to a fire investigators testimony under *Daubert*. Eventually the court determined the following...“We understand that labeling the fire “incendiary” was prejudicial to the accuse, especially in light of the fact that no accelerants were ultimately found. But in light of the arson investigator's testimony that acknowledged the limits of the hydrocarbon detector and identified various other reasons for labeling the fire incendiary, coupled with accused's cross-examination and presentation of witnesses tending to discredit the arson investigator, any *Daubert* error by the trial court was harmless.

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## ANDRING V. ALLSTATE PROPERTY & CASUALTY INSURANCE CO

This opinion addresses moves by Allstate to exclude any evidence or testimony regarding the lack of criminal prosecution of insured for causing the fire at the Property and also seeks to preclude evidence of or reference to other fires in the neighborhood as irrelevant, as prejudicial, and as tantamount to character evidence.

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