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## **Appellate Practice Pointer** Allstate Indemnity Company v. Ruiz

On April 7, 2005, the Florida Supreme Court issued its opinion in Allstate Indemnity Company v. Ruiz, case No.SC01-893 (Fla. Apr. 7, 2005). This decision addresses an insurer's duty to produce documents in a first-party bad faith case. It held that, "in connection with evaluating the obligation to process claims in good faith under section 624.155, all materials, including documents, memoranda, and letters, contained in the underlying claim and related litigation file material that was created up to and including the date of resolution of the underlying disputed matter and pertain in any way to coverage, benefits, liability, or damages, should also be produced in a first-party bad faith action."

The Court did acknowledge that, "where the coverage and bad faith actions are initiated simultaneously, the courts should employ existing tools, such as the abatement of actions and in-camera inspection, to ensure full and fair discovery in both causes of action."<sup>1</sup> On the one hand, it warned that, "[i]n no event should parties be permitted to undermine the plain meaning, spirit, and intent of the Legislature's mandate or this pronouncement by attempting to shield documents that pertain to the processing or litigation of the underlying claim by merely asserting that such documents were prepared in anticipation of litigation of the bad faith action."

On the other hand, it acknowledged that, "[i]n the same vein, litigants who choose to file both actions simultaneously must recognize that certain documentation relevant to the bad faith action may not be available for discovery until after resolution of the underlying matter."

Notably, the Court's opinion also surveyed the Florida bad-faith landscape in general.

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<sup>1</sup> Defense practitioners may consider seeking a dismissal without prejudice, rather than an abatement, of a premature bad-faith action. See Vest v. Travelers Ins. Co., 753 So. 2d 1270, 1275 (Fla. 2000).