

# COLE | WATHEN | LEID | HALL

## Insurance Law Newsletter

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## Highlights

- CWLH Prevails on Unlicensed Practice of Law Fraud
- CWLH Obtains \$350,000.00 Judgment Against Health Clinic and Owners
- Defense Verdict Rejecting PIP Suit for Medical Bills and Attorney Fees
- CWLH Secures Summary Judgment Dismissal of Statutory Attorney Fees
- CWLH Obtains Complete Defense Verdict in Clinic Case
- Arbitration Panel Narrows the Scope of Reasonable and Necessary Treatment
- Oregon Court of Appeals Affirms Circuit Court Decision Upholding Suit Limitation Provision
- CWLH Wins Declaratory Judgement Action: Court Determines There is No Coverage as a Matter of Law
- 9th Circuit Upholds Dismissal of Bad Faith Claims
- Court Overturns Default

*CWLH Successfully Prevails on Behalf of Allstate in  
Unlawful Practice of Law, Criminal Profiteering, &  
Fraud Suit*

*Allstate  
v.  
Lighthouse et. al.,*

USDC, Western  
District of  
Washington,  
Cause No. 2:15-  
cv-01976 RSL

Rory W. Leid, III  
&  
A. Elyse O'Neill  
&  
Nicholas A.  
Reynolds

Rory W. Leid, III, assisted by A. Elyse O'Neill and Nicholas A. Reynolds, represented Allstate Insurance Company in a Fraud, Unlawful Practice of Law, Consumer Protection Act, and Criminal Profiteering Act lawsuit in the matter of *Allstate v. Lighthouse et. al., USDC, Western District of Washington, Cause No. 2:15-cv-01976 RSL*. Allstate filed suit against a sham law firm, Lighthouse Law, as well as a number of employees and insurance cappers, asserting violations of the Washington Consumer Protection Act, Common Law Civil Fraud, Violations of the Washington Criminal Profiteering Act, and Unjust Enrichment.

The suit alleged the defendants as a whole committed the Unlawful Practice of Law (UPL), and trafficked insurance claims, all for the shared purpose of defrauding Lighthouse clients, Allstate, as well as other insurers doing business in Washington. Allstate also alleged that defendants paid cappers, in particular Seo and H&D Corp., to refer insurance claimants to Lighthouse and the defendants then misrepresented material facts in the insurance settlement demands that were submitted on behalf of their clients. Allstate alleged that the Defendants submitted over 200 false claims to Allstate.

Additionally, Washington's statute governing the unlawful practice of law prohibits persons not licensed to practice law in Washington ("non-lawyers") from owning a Washington law firm. The suit alleged that Thammalaiviroj, an attorney licensed in California, and Mr. Chong "Joseph" Kim, a non-lawyer residing in Washington State, owned Lighthouse despite lacking Washington bar licenses.

Ultimately, CWLH, on behalf of Allstate, resolved the matter in its entirety. Allstate obtained a Judgment in the amount of \$111,197.57, against Seo and H&D Corp. Moreover, Chong "Joseph" Kim paid over \$100,000.00 to Allstate to settle the matter against he and his wife.

## *CWLH Obtains \$350,000.00 Judgment Against Health Clinic and Owners*

Rory W. Leid, III and Jenna R. Goltermann successfully represented Allstate Fire & Casualty Insurance Company for claims of violations of the Washington Consumer Protection Act in the case of *North Seattle Health Center Corp. v. Allstate Fire & Cas. Ins. Co.*, W.D. Wash., No.: 2:14-cv-01680-JAR. North Seattle Health Center Corp. operated as a shell corporation, managing multiple clinics illegally and submitting duplicative and fraudulent bills to Allstate. Cole | Wathen | Leid | Hall, P.C. obtained a full dismissal of all claims against Allstate and secured a \$350,000.00, judgment against North Seattle Health Center on behalf of Allstate.

## *Defense Verdict Rejecting PIP Suit for Medical Bills and Attorney Fees*

Ryan J. Hall obtained complete defense verdict against a Plaintiff who sued to recover PIP benefits she claimed were owed following a minor motor vehicle accident in the case of *Thom Thi Vu v. Kimberly Bitter*, Multnomah County Circuit Court, Cause No. : 6CV24789. The arbitrator found the testimony of Defendant's accident reconstructionist persuasive and concluded that the MVA was a "very minor, low-speed front-end impact." The arbitrator also found testimony of Defendant's medical expert compelling, noting that inconsistencies in the medical test results were significant. Ultimately, the arbitrator found that Plaintiff did not meet her burden of proof of establishing her injuries were related to the accident resulting in another win for Cole | Wathen | Leid | Hall, P.C.

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*North Seattle Health Center Corp. v. Allstate Fire & Casualty Insurance Company*

WWDC Cause No. 2:14-cv-01680-JAR

Rory W. Leid, III  
&  
Jenna R. Goltermann

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*Thom Thi Vu v. Kimberly Bitter*

Multnomah County Circuit Court, Cause No. 16CV24789

Ryan J. Hall

## *CWLH Secures Summary Judgment Dismissal of Statutory Attorney Fees*

Ryan J. Hall represented Allstate Fire & Cas. Ins. Co., in the matter of *Luis Munoz Lizama v. Allstate Fire & Casualty Insurance Company*, Multnomah County Circuit Court Case No. 15CV05358. Plaintiff filed suit for benefits under both PIP and UM coverages. Following arbitration, Allstate moved for summary judgment dismissal of Plaintiff's remaining claims for attorney fees under the PIP and UM claims arguing that: (1) the PIP cause of action were precluded because the medical provider had waived the medical bills; and (2) although the UM claim remained viable, Allstate timely provided Plaintiff with a "safe harbor letter" precluding an award of attorney fees. The trial court agreed with Allstate resulting in summary judgment dismissal of the action.

## *CWLH Obtains \$250,000 Settlement on Behalf of Insurer in Federal Fraud, ORICO/RICO, UTPA Lawsuit Against Medical Provider*

Ryan J. Hall, assisted by Kimberly Larsen Rider and A. Elyse O'Neill, represented Farmers Insurance Company in the Fraud, RICO/ORICO, UTPA lawsuit in the matter of *Farmers, et. al. v. FirstChoice Chiropractic & Rehabilitation et. al*, USDC, District of Oregon, Cause No. 3:13-cv-0 1823-PK. Farmers filed suit against FirstChoice and others asserting claims of fraud, RICO/ORICO, UTPA and unjust enrichment in federal court. FirstChoice denied all of Farmers' claims and asserted counterclaims and defenses. All of FirstChoice's counterclaims were eventually dismissed. Additionally, CWLH obtained a favorable monetary settlement of \$250,000.00, on behalf of Farmers.

*Luis Munoz Lizama v.  
Allstate Fire & Casualty  
Insurance Company*

Multnomah County Circuit  
Court Case No.  
15CV05358.

Ryan J. Hall

*Farmers et al v.  
FirstChoice Chiropractic  
& Rehabilitation et al*

United States District  
Court for the District of  
Oregon, Cause No.:  
3:13-cv-0 1823-PK

Ryan J. Hall,  
Kimberly L. Rider,  
&  
A. Elyse O'Neill

*CWLH Secures Jury Verdict Substantially  
Below Last Settlement Offer*

William L. Weber, III, successfully represented American Family Ins. Co., in the UIM matter of *Tina Dworsky v American Family Casualty Insurance Company*, PCSC, Cause No. 15-2-05859-8. This action involved the valuation of a UIM claim. Plaintiff alleged a minor impact, rear-end accident caused permanent neck and back injuries along with a torn rotator cuff that required surgical repair and medical bills that totaled nearly \$80,000.00. Plaintiff also claimed that, due to her injuries, she lost substantial business as a mortgage loan officer, making a claim for lost earnings of \$286,000.00.

At trial, Plaintiff's attorney asked the jury to make an award of nearly \$500,000.00. During the two week jury trial, Plaintiff presented no less than fourteen (14) witnesses in an effort to substantiate her claims. All of this was to no avail. The jury found that this accident did not cause the permanent injuries alleged by Plaintiff and also found little merit in Plaintiff's wage loss claim as the jury returned a verdict substantially below the amount last offered at mediation. CWLH was able to obtain this great result despite the trial court's preclusion of favorable evidence including property damage photos showing little to no damage.

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*Tina Dworsky v  
American Family  
Casualty Insurance  
Company*

Pierce County Superior  
Court, Cause No.  
15-2-05859-8

William L. Weber, III

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*Yasmine Moore v. Allstate  
Insurance Company v.  
Kristopher Penn*

Multnomah County  
Circuit Court, Cause No.  
15CV28210

Ryan J. Hall

## *CWLH Obtains Summary Judgment Dismissal for Non-Cooperation*

Ryan J. Hall represented Allstate Insurance Company in the matter of *Yasmine Moore v. Allstate Insurance Company v. Kristopher Penn*, Multnomah County Circuit Court, Cause No. 15CV28210. Mr. Hall successfully obtained a summary judgment ruling in favor of Allstate regarding Plaintiff's and Third Party Defendant's non-cooperation by their failure to attend examination under oath.

## *CWLH Obtains Directed Verdict on Causation*

William L. Weber, III, represented the defendant in the third party action of *Gonzalez v Spencer*, Chelan County Superior Court, Cause No. 14-2-00723-4. At the conclusion of Plaintiff's case, Mr. Weber moved for a directed verdict on causation. The trial court granted Defendant's motion for a directed verdict and dismissed the case.

The case involved a minor impact rear end accident. Liability was admitted. Plaintiff, a 56 year-old orchard worker, was already off work at the time of the accident for an unrelated industrial injury. Plaintiff never returned to work, alleging it was due to back pain resulting from the subject accident. In addition to medical bills of \$15,000, Plaintiff sought damages for approximately ten years of lost wages in the amount of \$150,000. At trial, Plaintiff did not offer any medical testimony relating his treatment or condition to the motor vehicle accident beyond his medical records. The court agreed that expert testimony was required to establish the treatment and lost work was due to the accident and not due to his pre-existing conditions and degeneration. After exhaustive oral argument, the trial court granted Defendant's motion for a directed verdict and dismissed the case.

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*Gonzalez v Spencer*

Chelan County Superior  
Court, Cause No. 14-2-  
00723-4

William L. Weber, III

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*Matthew v Pfenninger*

Jefferson County District  
Court, Cause No. 16156

William L. Weber, III

### *Jury Verdict Substantially Beats Last Offer*

William L. Weber, III, represented the Defendant in the third-party action of *Matthew v Pfenninger*, Jefferson County District Court, Cause No. 16156. This matter involved a moderate to severe rear-end motor vehicle accident. The defense admitted liability and that the Plaintiff sustained a mild sprain/strain injury to her neck. The jury award, which was substantially less than the last offer made, clearly reflects that the jury found Defendant's theory of the case to be more credible in that the accident did not result in serious or permanent injury to the Plaintiff.

Plaintiff, an accomplished 16 year-old swimmer, was a backseat passenger in her brother's car on the date of loss. Plaintiff alleged that because of her injuries she had to quit the swim team which made her depressed and she stopped going to school and it took her an extra year to graduate from high school. She also claimed that the injuries were on-going and she lost out on scholarship opportunities. Plaintiff asked the jury to award her \$93,000.00.

The defense argued that there was several other explanations, unrelated to the subject accident, as to why the Plaintiff quit swimming. The defense also presented evidence that Plaintiff remained active, proving the injuries were minor. The defense showed she returned to swimming the next year and set a couple of school records. The defense suggested the jury should award \$3,000 in medical specials and \$12,000 in general damages. The jury clearly found for the defense and awarded the \$3,000 medical specials and \$14,000 in general damages. At mediation, the defense offered \$25,000, to the plaintiff's last demand of \$35,000.

## *CWLH Obtains Complete Defense Verdict in Clinic Case*

Ryan J. Hall successfully represented Farmers Insurance Company in the matter of *Xiomara Lizbeth Chamo-Rojas v. Farmers Insurance Company*, Washington County Circuit Court, Cause No. C153750CV. Mr. Hall obtained a complete defense verdict against Plaintiff who sued Farmers to recover PIP benefits she claimed were owed following a minor motor vehicle accident. The lawsuit also involved issues relating to suspicious chiropractic treatment and billing. Ultimately, the arbitrator found the chiropractic clinic's medical records to be unpersuasive in justifying excessive treatment received by Plaintiff. The arbitrator ruled that no further amounts were owed to the clinic and did not award attorney fees or costs against Farmers.

## *Arbitration Panel Narrows the Scope of Reasonable and Necessary Treatment*

Ryan J. Hall secured a favorable judgment in the three-person panel binding UM arbitration of *In Re: the Matter of the UM claim of Trinh Le Nguyen v. Allstate*. The matter involved issues relating to suspicious chiropractic treatment and billing. Because of Mr. Hall's zealous representation, the panel ultimately limited the scope of what constituted reasonable and necessary treatment.

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*Xiomara Lizbeth Chamo-Rojas v. Farmers Insurance Company*

Washington County  
Circuit Court, Case No.  
C153750CV

Ryan J. Hall

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*In Re the Uninsured Motorist Arbitration between Trinh Le Nguyen and Allstate Insurance Company*

Ryan J. Hall

## *Oregon Court of Appeals Affirms Circuit Court Decision Upholding Suit Limitation Provision*

Ryan J. Hall obtained a landmark appellate court ruling on behalf of Allstate in the matter of *Brockway v. Allstate*, Oregon Court of Appeals Case No. A155335. Plaintiffs/Appellants filed suit in circuit court asserting breach of contract when Allstate denied their claim. Allstate moved for summary judgment arguing that the action was untimely in light of a two year suit limitation provision contained in the policy of insurance. The trial court agreed and granted the motion. Plaintiffs/Appellants appealed the general judgment in favor of Allstate. On appeal from the Circuit Court, the Appellate Court found that Defendant/Respondent Allstate was the prevailing party. In so ruling, the Appellate Court found that no objectively reasonable factfinder could conclude that Allstate should be estopped from raising the suit-limitation provision as a defense in the case.

*Brockway v. Allstate*

Oregon Court of  
Appeals, Cause No.  
A155335

## *CWLH Wins Declaratory Judgement Action*

Rory W. Leid, III, assisted by Arezou Arefi-Afshar, successfully won a federal declaratory judgment action in the Eastern District of Washington in the case of *American Commerce Insurance Company v. Ross Hill and Lindsey Clarimont, et al*, USDC – Eastern - Case 2:17-cv-00111-TO. The Court granted CWLH's motion for summary judgment holding that there is no coverage and no duty to defend as a matter of law in the underlying litigation. The underlying litigation involved a dispute between a homeowner (insured) and the homeowner's association where the homeowner allegedly built a boat / RV garage on his property without HOA approval and in violation of the HOA CC&Rs.

*American Commerce  
Insurance Company  
v.  
Ross Hill and Lindsey  
Clarimont, et al*

USDC – Eastern –  
Case 2:17-cv-00111-TO

Rory W. Leid, III  
&  
Arezou Arefi-Afshar

### *9th Circuit Upholds Dismissal of Bad Faith Claims*

Rory W. Leid, III obtained a 9th Circuit Court of Appeals ruling on behalf of Allstate in the matter of *Kabrich v. Allstate*, US Court of Appeals for the 9th Circuit, Case No. 14-35768. Plaintiff filed suit in Superior Court alleging breach of contract, bad faith, violations of Washington Administrative Code, violations of the Consumer Protection Act, and violation of the Insurance Fair Conduct Act. The Trial Court granted Allstate's motions, determining that Allstate had paid Plaintiff/Appellant's claim, and that Allstate's actions in adjusting the claim were reasonable. The Court dismissed Plaintiff claim for attorney fees under Olympic Steamship, because the Plaintiff was not the prevailing party. Plaintiff/Appellant appealed. The 9th Circuit Appellate Court affirmed Summary Judgment in favor of Allstate.

### *Court Overturns Default*

Rory W. Leid, III and Christopher Roslaniec represented Allstate Insurance Company's insured in an action arising out of a motor vehicle accident in the case of *Chang v. Glover*, King County Superior Court No. 14-2-30263-1 SEA. Plaintiffs had already obtained a default order and were attempting collection actions when the case came to Cole | Wathen | Leid | Hall P.C. Mr. Leid and Mr. Roslaniec successfully overturned the default, allowing the case to be settled for a fraction of the default award.

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*Kabrich v. Allstate*  
US Court of Appeals for  
the 9th Circuit,  
Case No. 14-35768

Rory W. Leid, III

*Chang v. Glover*  
King County Superior  
Court  
No. 14-2-30263-1 SEA

Rory W. Leid, III  
&  
Christopher J. Roslaniec

## *Defense Verdict in a Third-Party MVA Lawsuit*

Ryan J. Hall, assisted by Erika L. Holsman, obtained complete defense award against a mother and her three minor children, who sued to recover personal injury damages arising from a minor parking lot accident in the case of *Noor et al. v. Muse*, 16-2-29196-1 SEA. Plaintiffs sought a combined total of \$87,000 in special and general damages, while property damage to Plaintiffs' vehicle was purely cosmetic. Defendant's accident reconstructionist testified at Arbitration that based on the mechanics of the accident, it is not possible that the mother or her children sustained the injuries alleged. The Arbitrator found the testimony of Defendant's accident reconstructionist persuasive and concluded that Plaintiffs did not meet their burden of proof of establishing that they sustained any injuries and resulting damages as a result of the accident. The Arbitrator issued a defense award—another win for Cole | Wathen | Leid | Hall, P.C.

Please contact our office if you have any questions about any of the cases discussed in this newsletter or any other issues. Thank you for your continued interest.

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*Noor et al. v. Muse*  
Cause No. 16-2-29196-  
1 SEA

Ryan J. Hall  
and  
Erika L. Holsman

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