

Calif. State Auto Assoc. Surrenders

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In a dramatic finish, after two days of the bad faith trial against the California State Automobile Association (CSAA, aka AAA) attorneys for CSAA asked to settle. The case involved a mass tort claim against CSAA for deliberate anti-chiropractor practices. From 1987 to 1990 CSAA substantially reduced or denied its medical payment claims, which impacted thousands of legitimate claims over Northern California and Nevada. At trial, executives for CSAA finally threw in the towel.

CSAA spent many millions of dollars of legal fees in the Adams v. CSAA bad faith case since suit was filed in 1990. In what was to be a one year trial, CSAA attorneys approached lead trial counsel Gary Gwilliam and offered, as reported in local newspapers, over four million dollars in settlement of 80 victims.

CSAA managers began their anti-chiropractic odyssey in 1987. To squeeze the "profit" out of soft tissue injuries, senior managers directed adjusters to erect a number of barriers for the prevention of payment of legitimate medical payment benefits. Most of the medical payment bills which were reduced or not paid were for chiropractic services. Not only were consumers impacted, but chiropractors suffered and the claimant's attorneys were outraged.

A number of meetings out of my San Francisco office helped create a coalition of consumers, lawyers, and doctors to challenge the CSAA problem. This was no small commitment. CSAA is a multi-billion dollar insurance company, and the largest automobile insurance carrier in Northern California, insuring some two million vehicles.

A three pronged strategy was formulated. Attorney Larry Murray of San Francisco organized a stockholder's proxy challenge to CSAA's board of directors (see "DC" Dec. 15, 1989, Feb. 14, 1990). In three consecutive years, three separate consumer-oriented slates ran to challenge CSAA's board of directors. Since all CSAA insureds are stockholders they could vote to unseat the board. Dr. Michael Pedigo, formally a plaintiff of Wilk et al., v. AMA et al., and the future president of the California Chiropractic Association, led the first slate. Thereafter, Dr. Merlin Green, former president of the California Chiropractic Assoc., led the second slate. CSAA admitted that they spent several million dollars defeating the rebel slates to maintain their grip. Larry Murray, at his own expense, appealed a superior court ruling and lost in the court of appeals attempting to establish new law to prevent CSAA from financing re-election of its own board of directors.

The second front dealt with referring complaints to the district attorney and the California Department of Insurance. San Francisco District Attorney Arlo Smith, after meeting with the CSAA coalition at my office, agreed to study the matter. Soon thereafter he directed his consumer fraud department to initiate a careful investigation whether or not CSAA, by withholding lawful benefits, was violating California law ("DC" March 28, 1990). Judy Johnson of the district attorney's office personally handled the investigation and soon after filed charges on behalf of those who had numerous complaints which the D.A. received. After several years of litigation, the D.A. and the Depart. of Insurance won a settlement against CSAA in January 1993 ("DC" February 12, 1993).

The D.A. was able to achieve a remarkable settlement against CSAA. The settlement package included:

1. rewriting their manual for adjusters and how to properly pay medical payment claims;
2. retraining adjusters to effectively handle medical payment claims;
3. hiring of an ombudsman with an 800 number to service complaints from CSAA policyholders in connection with medical payment claims;
4. payment of a fine to the D.A. and the Depart. of Insurance of \$230,000;
5. payment of over \$32,500 to reimburse the D.A. for expenses on processing the law suit against the CSAA.

Notwithstanding that remarkable settlement, CSAA officials continued to deny their company was engaged in bad faith behavior against its own insureds.

The third prong was a major bad faith case against CSAA. I approached Gary Gwilliam, former president of the California Trial Lawyers Assoc., to lead the mass tort suit. After screening numerous complaints from consumers, most of whom were chiropractic patients, Gary Gwilliam selected 80 cases for the mass tort claim against CSAA. Attorney Gwilliam filed the law suit in San Francisco Superior Court in 1990.

Over the next four years over 400 depositions were taken of all claimants, doctors, attorneys for the claimants, adjusters for CSAA, and defense attorneys involved with the case. Important information was gleaned from top officials of CSAA. Ten former claims adjusters were prepared to testify against CSAA. Mr. Gwilliam's firm expended \$600,000. Two prominent chiropractors were retained by Mr. Gwilliam to testify on behalf of the consumers: Scott Haldeman, MD, DC, PhD, and Gary Miller, DC, former president of AFICC. CSAA retained two chiropractors known for their anti-chiropractic biases.

The Contra Costa Times reported that Judith Elenbaas, who received just \$279 from CSAA for \$14,000 in medical bills, rejoiced when she learned of Thursday's settlement. "I think (this settlement) will send a message that even if you are a big company, there is still such a thing as justice and doing the right thing by people, Judith said. "I'm going to go out and buy the exercise machine for my injured back that I should have had a long time ago," she added.

There are many hundreds of heroes who were involved in this campaign, not the least of which is the leadership of the Calif. Chiropractic Assoc. Local society branches, Monterey, North California, Alameda County and numerous others, paid for local full-page ads against CSAA abuses. Chiropractic societies encouraged patients to file complaints to the district attorney and department of insurance. Many had their depositions taken during the bad faith case. Others wrote letters to the editor or sued CSAA adjusters in small claims court in numerous courtrooms throughout Northern California and Nevada. It worked.

Had CSAA been successful in taking chiropractic out of Med Pay, other insurance companies certainly would have followed their example. Gary Gwilliam anticipates there will be a major shake

up in the CSAA management due to its disastrous Med Pay policy. This should serve as a strong message to other insurance carriers throughout the nation that anti-chiropractic bias in preventing consumers from having their legitimate health bills paid is not only bad public relations, but can have disastrous legal consequences.

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APRIL 1995