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**METHFESSEL & WERBEL**  
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## C A S E A L E R T

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### STATE ASSEMBLY TESTIMONY FROM M&W'S BILL BLOOM HELPS DERAIL MISGUIDED "BAD FAITH" BILL

On January 9, [Bill Bloom](#) of M&W [testified](#) before the State Assembly Financial Institutions and Insurance Committee regarding a proposed bill – previously passed in the Senate - that would create a new “bad faith” cause of action for an insurance carrier’s “unreasonable delay or denial” of a claim, as well as a private cause of action for a violation of the Unfair Claims Settlement Practices Act. Under the bill as proposed, conduct determined unreasonable by a jury could entitle the insured to unspecified consequential damages, attorney’s fees and costs.

In opposing the legislation on behalf the Insurance Council of New Jersey (ICNJ), Bill noted that first party claimants already have sufficient legal recourse under the 1993 Supreme Court decision in [Pickett v. Lloyds](#), litigated by M&W, which affords an insured the right to recover consequential damages where the basis for delay or denial of a claim is not “fairly debatable.” Bill further explained that the present bill would be a marked departure from centuries of jurisprudence of not punishing a party for negligence, but simply allowing recovery for the actual consequence of the negligence. Bill expressed deep concern about allowing insureds to pursue a claim for one time

violation of the Unfair Claims Settlement Practice Act, which would create an untenable minefield of technical requirements.

While ultimately the bill was voted out of committee, in response to the opposition voiced last week, many committee members expressed significant reservations and indicated that they would not vote for passage of the bill in its present form. The bill was subsequently pulled from consideration by the full Assembly. Clearly this is a substantial victory for the insurance industry and, by extension, New Jersey consumers. This legislation has been fought by the industry, its lobbyists and representatives, and our firm, for two full years. M&W is happy to have played a part in such a pivotal victory.

To listen to Bill's testimony please click [HERE](#). To listen to the full testimony please click [HERE](#).

Feel free to contact [Bill](#) with any questions or concerns.



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