

**2762 BAD FAITH BY INSURANCE COMPANY: THIRD PARTY EMPLOYEE
CLAIM AGAINST WORKER'S COMPENSATION CARRIER**

Instruction withdrawn.

COMMENT

An instruction on this subject was approved by the Committee in 1979. The instruction was withdrawn by the Committee in 1996. This comment was revised in 2005 and 2009. Section 102.18(1)(bp) of the Wisconsin Statutes authorizes the Department of Workforce Development to assess a penalty for bad faith against a workers compensation insurer. This statutory provision states that the penalty is the exclusive remedy against an employer or insurance carrier for malice or bad faith. In Jadofski v. Town Kemper Ins. Co., 120 Wis. 2d 494, 335 N.W.2d 550 (Ct. App. 1984), the court held that this statute is the exclusive remedy for acts occurring after November 28, 1981.