

The Policyholder Advocate



Policyholders of America

April 2008 issue

THINK YOU'VE GOT PROBLEMS GETTING YOUR CLAIM PAID? TRY BEING IN TEXAS WITH A NAME LIKE "MOHAMMAD"

Mohammad Kahn (right) with his two sons and guard dogs. The dogs are on duty, 24/7, as his now vacant home.



I first met Mohammed Khan in 2003. We sat on the step outside of his toxic abode in Sugar Land, Texas (Ft. Bend County) as he recounted happier times. His dutiful Great Danes stood watching every move I made hoping Mohammad would allow them to sample the potential appetizer. Thankfully, Mohammad gave them the "all clear" sign, and the dogs resumed their

positions guarding the perimeter of the home.

Mohammad is a thoughtful, family man who came to this country from India some thirty years ago to pursue the American dream. His hands are the hands of man not afraid of hard work. And work he did. He married a soft-spoken, India-born woman named Tasneem and together they raised four sons, squirreled away enough money and bought a home near the Country Club.

For nearly six years, the retired Mercedes Benz restoration expert has been in an epic battle with his insurer, Safeco, and Crawford — the com-

pany doing much of Safeco's claims adjusting.

In August of 2002, the Khan family returned home from a three-week vacation to discover that a water leak from the attic has caused extensive damage to the home, a covered loss. The Khans made a claim on their homeowner's insurance for the loss. Safeco, the insurer used Crawford & Co. to lowball the scope of repairs required. Crawford's own Microbiologist, in his Affidavit, stated "Mold test results show severe mold contamination in Khan's home" and it's "a complete loss". You know the rest... Safeco paid only a small fraction of the cost to repair, leaving the Khans sucking wind.

continued on page 11

Inside this issue:

AGAINST THE ODDS: IS SAFECO BETTING A TEXAS JURY WON'T BE SYMPATHETIC TO A GUY NAMED "MOHAMMAD"?	1,11
ALLSTATE AND STATE FARM HIT WITH RICO CHARGES	1
ARE YOU A MALINGERER? NEW TEST FLAWED BUT USED IN COURTS. TAKE THE TEST YOURSELF.	2, 12-14
JUSTICE 4 SALE	3
CDC INVESTIGATED AGAIN	4, 10
CONTINUING KATRINA COVERAGE: LEGAL ROUND-UP, HOW INSURERS USE PROXIES TO SWAY COURTS, TOP LAWYER PLEADS GUILTY OF BRIBERY, JURY AWARD REASON TO REVIEW YOUR POLICY, BICKERING LAWYERS, FEDS GIVE FREE PASS TO STEALING FROM TAXPAYERS, AND MORE...	5-9
ARE YOU INSURED?	15-18
RECENT MOLD-RELATED DECISIONS (3 OUT OF 5 ARE GOOD THE OTHER 2 ARE REALLY BAD)	19-22
THE FALL OF THE AMERICAN CONSUMER	23
YOU BET YOUR LIFE: HOW SENIORS ARE CASHING IN	24
WHAT HAPPENED IN HOMEOWNERS IS NOW HAPPENING IN AUTO. MORE INSURANCE CO. ABUSE	25-27
STATE WATCH: AL, CA, FL, MD, MI, NY, TX	28-36
STATE FARM LAWYER HITS "SEND" BUTTON AND ACCIDENTLY EMAILS MEDIA, IGNITING FIREWORKS.	Back cover

ALLSTATE AND STATE FARM HIT WITH RACKETEERING CHARGES

Rigged medical exams used to "ixnay" benefits. POA

Finally! A physician with cojones.

Dr. John McGee of New York, filed two similar actions under RICO (Racketeer Influenced Corrupt Organization Act), one against State Farm and one against Allstate. Both suits claim the insurers acted in concert with independent medical examination ("IME") companies and doctors to furnish "scientifically dishonest reports in order to terminate benefits."

McGee is not an injured accident victim that was wrongfully deprived of insurance benefits. He is a physician practicing rehabilitative medicine and asserts that the insurers wrongly denied claims he submitted on behalf of his patients. The sham IMEs enabled

the insurers to deny the claims thus depriving him of the revenue he should be receiving for the treatments he rendered, he says.

The suits also allege that juicy kickbacks are involved.

IMEs named in the suits include: Independent Physical Exam Referrals, Metro Medical Services, D&D Evaluations, Medimax and Allegiance Healthcare (the last three merged to become another named defendant -Hooper Evaluations, which is owned by Hooper Holmes). The complaints also names individual doctors involved with the alleged scam.

The two cases are [McGee v. State Farm](#) and [McGee v. Allstate](#).

Mohammad...

continued from page 1

What should have been the “Golden Years” for Mohamed and his wife became a spiraling financial nightmare.

Loss is no stranger to the Khans. A few years ago, his son, Adil, died of Muscular Dystrophy. His other three sons, Imran, Irfan, and Asim have battled mold-related illnesses and Asim had to undergo emergency surgery, which is thought to be a result of the mold exposure.

Under the best of circumstances, policyholders must fight tooth and nail for insurance companies to honor their policies. Add to the mix that on 9/11, a bunch of Islamic screwballs decided to declare war on America, and a guy named “Mohammed” probably isn’t going to stand a chance. Ethnicity shouldn’t matter since insurance coverage isn’t supposed to be dependant on race, gender, religious beliefs, etc... The Khans, however, are American citizens and have a greater respect for our country and way of life than most Mayflower descendants.

For six years, Safeco claimed that the repair of mold in Mr. Khan’s home was either limited and/or excluded. In court records, Safeco cited an Endorsement “SM 25 90/EF 9/96” to Mr. Khan’s policy as justification to limit and/or exclude Mr. Khan’s claim. The problem with Safeco’s position is simple: Endorsement “SM 25 90/Ef 9/96” does not exist.

While Safeco dug its heels in

on this argument, Mr. Khan’s 5,000 square foot home became a Petri dish for mold growth. Now, the cost of remediation is far more than the cost of bulldozing and rebuilding from scratch.

Like many, Mr. Khan looked to the Texas Department of Insurance for help. And, why not? Departments of Insurance all across the country have mandates to enforce insurance statutes.

Nonetheless, the Texas Department of Insurance chose not to take action. In fact, having already admitted the endorsement Safeco relied upon to deny the claim doesn’t exist, on March 14th the Texas Department of Insurance wrote, it “does not decide which version of the facts are true” and washed their hands of it.

The Texas Department of Insurance is not unique: 48 out of 50 state insurance departments serve to enable insurance code violations. The odds of winning PowerBall are better than the odds of an Insurance Commissioner going out on a limb to resolve a dispute between carrier and policyholder. Commissioners are notorious for using their position as a springboard to a cushy industry position and helping the consumer would upset the apple cart.

Meanwhile, it appears that Safeco has spent more money trying to avoid paying the Khans than they would have had they paid the claim as per the policy. Private investigators have stalked the family on-and-off for years and high-dollar defense attorneys continue to spew forth mindless argu-

ments and motions.

What’s good for the goose, though, is not good for the gander. In a June, 2005 deposition of Mr. Khan, Safeco’s attorney, Jeff Murphrey, spent much time grilling Mr. Khan about tape recordings of various conversations he had with Safeco and Crawford adjusters and experts. Mr. Murphrey wasn’t digging the fact that Mr. Khan’s recordings were done without the knowledge of the other party – something that is perfectly legal in Texas and something POA strongly recommends to avoid a “he said/she said” situation. All the while, private investigators hired by the defendants were sneaking around the Khan’s toxic casa which is what prompted the Great Dane patrol.

From the get-go of the Khan claim, there was something unsettling simmering beneath the surface. The Houston Chronicle and others have reported the story but no one has addressed the elephant in the room. All along, POA believed that Safeco felt a Ft. Bend County jury would not be sympathetic to a plaintiff with the first name of “Mohammed”. While there may be some truth to their general perception of the community, the Khans don’t exactly fit the “terrorist” profile. All three sons want to join the U.S. Airforce to defend our great nation.

In cases where the facts of the case are totally against the insurer, it is common practice for insurers to resort to trying to discredit the plaintiff by any means necessary. POA believes it’s

Is the insurer in this case counting on jurors to equate the name “Mohammad” with Islam/Jihad? Will it work?

likely that the defendants in this case have resorted to linking the Khan family with Islam. And why not? Their first attempt to deny coverage included signing and filing court documents that offered up a phony, non-existent endorsement as reason for denying coverage. So ballsy were they that they persisted to rely on the phony document when the Texas Department of Insurance got into the picture and started probing into Safeco’s excuses. You see, the Texas Department of Insurance would have had to approve the endorsement, which of course, they had not done.

Ryan Scott, the attorney representing the Kahns told POA, “Unfortunately, Mr. Khan’s situation is all too common. After years of rulings and legislation favorable to the insurance companies, any policyholder faces an uphill battle in any dispute with their insurance carrier in Texas.”

This case is set for trial in 2008, at which time we will learn if a Ft. Bend County jury will see beyond the Islamic “smoke and mirrors” by rendering a verdict on behalf of the Khans. The Khans insist they have full faith in a Ft. Bend County jury as they await their day in court.