



1986

## Preface

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### Recommended Citation

Dittus, Sandra B. (1986) "Preface," *North Dakota Law Review*. Vol. 62 : No. 3 , Article 1.

Available at: <https://commons.und.edu/ndlr/vol62/iss3/1>

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## PREFACE

Insurance law has changed dramatically in recent years. The current crisis in the insurance industry has focused attention on lawyers, judges, and legislators. Unfortunately, much of the attention has been directed at where to place the blame rather than on how to resolve the complex problems involved. Increased jury awards and a myriad of other factors have caused insurers to either increase rates or drop policies. For the potential insured, self-insurance or no insurance is often the result.

We must begin to focus on the future of the insurance industry and find solutions to the growing problems. This issue of the *North Dakota Law Review* features a number of Articles that discuss some of the issues and concerns behind the insurance crisis and offer ideas for reform.

The introduction to the symposium was written by Thomas O. Smith. Mr. Smith is a partner with the Zuger & Bucklin law firm in Bismarck, North Dakota. He provides an insightful discussion of recent North Dakota case law and the legislative reaction to those decisions. Mr. Smith suggests that reflection on the potential legislative reaction to court decisions may enable attorneys to predict the future of the law and to prepare successfully for it.

The symposium begins with an Article written by John F. Dobbyn, a highly acclaimed scholar of insurance law. Professor Dobbyn, a faculty member at Villanova University School of Law, discusses the claim for relief for the bad faith refusal to settle an insurance claim. He discusses the genesis, development, and current status of the tort. Mr. Dobbyn's thesis is that courts should allow an insurer to recover damages occasioned by the insured's bad faith refusal to settle an insurance claim.

The second Article was written by Assistant Attorney General Carole (Huseby) Olson. Their Article discusses the insurance crisis

as it relates to political subdivision liability. The Article also discusses the history of governmental immunity and the ramifications of North Dakota's abrogation of that doctrine. A bibliography is included at the end of the issue. The bibliography provides resource materials and articles available at the Thormodsgard Law Library. The bibliography was cowritten by William P. Wilson, Attorney Services Librarian, and James R. Carlson, Jr., Public Service and Reference Librarian at the University of North Dakota School of Law.

The remainder of the symposium consists of two student works. The first case comment provides an analysis of a recent North Dakota Supreme Court decision concerning the applicability of North Dakota's financial responsibility laws to certain insurance policies. The author traces the history of these laws, their previous applications, and the reasoning behind the court's holding that an insurance company cannot rescind a policy that provides substantially the same coverage required by the financial responsibility laws after the occurrence of an accident.

The second case comment addresses the doctrine of reasonable expectations and the issue of whether courts will interpret ambiguities or exclusions in an insurance policy to defeat the expectations of the insured. The writer concludes that the doctrine of reasonable expectations may defeat even an unambiguous provision, provided the insured's expectations are reasonable and consistent with the purpose of the policy.

The *North Dakota Law Review* is pleased to present this symposium on insurance law. Hopefully this issue will be a useful tool to students, practitioners, and professors. The *North Dakota Law Review* appreciates the efforts of the contributing authors and everyone involved in the publication of this issue.

SANDRA B. DITTUS  
*Special Projects Editor*