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EXCERPT

Looking for a New Cause of Action?(Interview of William M. Shernoff)

The path to acceptance for any cause of action is generally long and arduous. The process can begin with a new law, a new application of an old law or the development of a new theory, but each cause faces daunting obstacles, particularly in gaining the willingness of judges to allow the cause to proceed.

Truly new torts are rarely accepted. The now-common tort of insurance bad faith was one of the few first established this century. The first lawsuits against insurance companies for denial of coverage date back more than 300 years, noted plaintiffs' attorney William M. Shernoff of Claremont, Calif. But it wasn't until 1974, in a case with Mr. Shernoff as counsel for the plaintiff, that California became the first state to establish case law delineating bad faith in denials as a separate tort.