

**REVISITING THE POLICY LIMITS
DEMAND, PART ONE**

Wesley Lowe

**SO YOU HAVE A CASE IN
SANTA CLARA COUNTY**

Kristine Meredith

The

Trial Lawyer

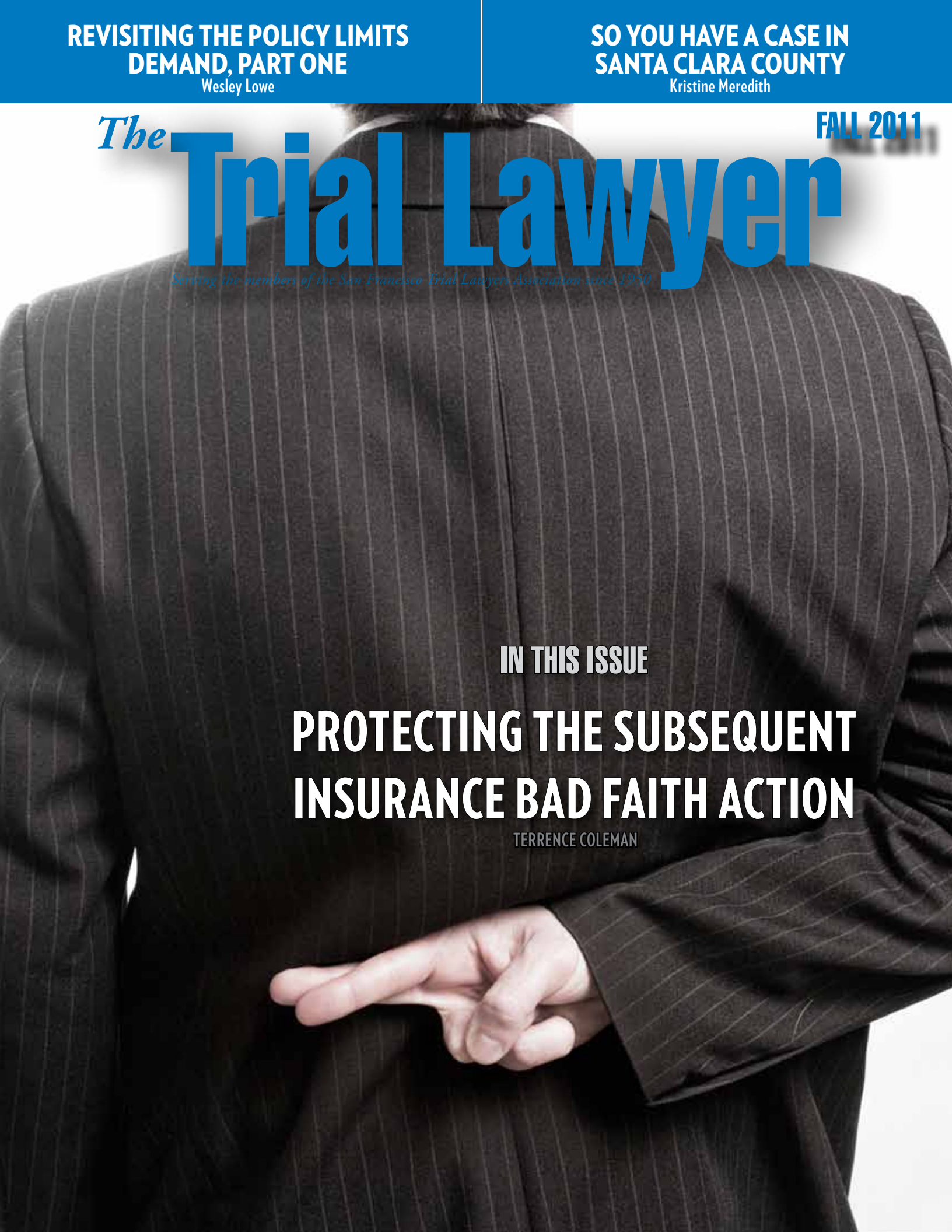
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Serving the members of the San Francisco Trial Lawyers Association since 1950

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PROTECTING THE SUBSEQUENT INSURANCE BAD FAITH ACTION

TERRENCE COLEMAN



Insurance Makes the World Go 'Round

Since the last issue of *Trial Lawyer*, the *Howell* decision has come down and the San Francisco Superior Court very nearly came down too— as in imploded. Both of these events threaten our work on behalf of our clients. Although it will take a while to see exactly how the trial courts tinker with *Howell's* holding, one thing is clear: as between a negligent party and the injured person who has made the effort and spent the premium dollars to be insured, it is the former who gets the benefit of the economies of scale every health insurer bargains for with health-care providers. Premium dollars spent by the insured mean nothing. I just signed a case in which my uninsured client had sur-

issue: insurance. When the defendant's carrier is not playing nice, Terry Coleman tells us how to protect a subsequent insurance bad faith action. Here's a tip from his article: be wary of stipulated judgments. They may not hold up. In the first of a two article series, Wes Lowe reviews how to make an insurance policy limits demand that will hold up later when the carrier is trying to wriggle free. His discussion of the famous case of *Crisci v. Security Ins. Co.* brings that case and its cast of characters to life. The point of both these articles is that we have tools— powerful tools— at our disposal to force insurance carriers to play fairly or risk major sanctions in the form of damages well beyond their policy limits.

“ When the defendant's carrier is not playing nice, Terry Coleman tells us how to protect a subsequent insurance bad faith action. ”

gery for a fractured elbow. The bills will probably exceed \$75,000. I have another *insured* client who had major knee surgery - the bills paid were about \$11,000. If you believe juries use medical bills as an anchor, the odd result of *Howell* is that uninsured plaintiffs get bigger and hence better damages anchors than the insured.

What to say about the incredible shrinking San Francisco Superior Court? For a while it looked like we might lose 25 courtrooms including both complex litigation departments. Now “only” 14 civil courtrooms will be closed. No matter how you slice it, it is going to be a lot harder to threaten a recalcitrant insurance carrier with a firm trial date.

This leads us to one of the themes of this

In his first contribution to the magazine, medical malpractice specialist Markus Willoughby offers an excellent practice piece on how to pin down the defense expert in failure to diagnose cases.

Do you have any cases in Santa Clara County? Then you need to read Kristine Meredith's overview of how the trial courts operate in San Jose. She has some timely advice from the presiding judge on what they like to see when we practice.

Finally, we have a summing up of the Trial Advocacy fellowship program by Hastings 3L Ike Kaludi.

In sum, nobody ever said representing the little guys against the powers that be was going to be easy. It would just be nice to have a courtroom to do it in. ■



Chuck Geerhart is the editor of the Trial Lawyer and a Member of the Board of Directors of SFTLA. He is a partner with Paoli and Geerhart, a San Francisco Firm specializing in personal injury.