



## And The Defense Wins

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Former DRI officer and board member **E. Wayne Taff** of the **Law Offices of E. Wayne Taff** in Blue Springs, Missouri, successfully represented the insurer in obtaining a significant summary judgment, recently affirmed by the Eighth Circuit in *Heacker v. Nationwide Insurance Company of America*, Case No. 11-1489. The matter arose from an equitable garnishment that followed an agreement between the plaintiff and another insurer, which permitted a state court trial judge to enter judgment for \$7.3 million. The Eighth Circuit affirmed, holding the bodily injury coverage of a homeowner's policy and the personal injury coverage of an umbrella policy afforded no coverage for the alleged acts of hacking into the plaintiff's voicemail and Facebook, sending disparaging emails and letters, and in making hundreds of phone calls through a service that altered the number and voice of the caller, resulting in emotional distress, which manifested through alcoholism and PTSD.

The Eighth Circuit determined there was no coverage under the homeowner's policy since the alleged acts were not accidental, with there being no occurrence, and on the further basis that alcoholism and PTSD arising from emotional distress did not constitute bodily injury. The court found coverage did not exist for alleged defamation or invasion of privacy under the personal injury coverage of the umbrella, since the acts that led to the harm constituted mental abuse. Although the phrase "mental abuse" was not defined in the mental abuse exclusion within the umbrella, the court found that a reasonably prudent insured would discern that mental abuse is mental maltreatment, often resulting in mental or emotional injury.

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