

### New Court of Appeal Decision Allows Insureds to Video Record Examinations Under Oath

*Daily Journal*  
03.18.2024

The *Daily Journal* article authored by Sheppard Mullin Insurance industry team partner John Edson and associate Preston Bennett discusses a recent ruling by the California Court of Appeal that allows insured individuals to video record their examinations under oath (EUOs). In the matter, *Myasnyankin v. Nationwide Mut. Ins. Co.*, the court interpreted Insurance Code section 2071.1(a)(4) to mean that an insured individual can record the entire EUO, including the insurer's attorney and claim adjusters. The court did not require the insured to use a professional videographer, thus, allowing the use of a smartphone for recording.

However, the court did not provide clarity on whether the insured can record during breaks or before/after the proceeding, which could lead to potential disagreements and further legal challenges. The ruling could discourage adjuster participation in EUOs and embolden policyholders' attorneys to engage in obstructive conduct. It is uncertain how this ruling might apply to other routine meetings during the claim, such as vehicle or site inspections and recorded statements.

In light of the court's new decision, insurers can adopt measures such as arranging for their representatives to appear remotely with cameras off and ensuring they also professionally video record the EUO.

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