

Property & Casualty Insurance

Overview

We provide coverage and claims counseling, litigation, and arbitration services in matters involving all types of property and casualty insurance. In addition, we defend individuals and entities that are insured by our clients under a wide range of policies. We also provide services related to issues such as claims and underwriting practices, regulatory and transactional matters, administrative and regulatory litigation, and reinsurance.

Coverage and Claims Counseling, Litigation, and Arbitration

- **Directors and Officers and Related Coverages** – We provide analysis and dispute resolution, and litigate a variety of claims by insureds under directors and officers (D&O) liability policies and related coverages. Our lawyers regularly handle complex coverage issues on behalf of insurers under D&O, errors and omissions (E&O), employment practices liability (EPL), and other professional liability policies. **Bad Faith Litigation** – We have considerable experience handling bad faith litigation. Our lawyers represent leading insurance companies in bad faith litigation (both individual and class action) in state and federal courts throughout the country, and we devise and help implement creative strategies for minimizing or eliminating exposure to extra-contractual liability. **General Liability** – We assist clients with the construction and interpretation of commercial general liability (CGL) policies, counseling them and litigating on their behalf. In this capacity, we address issues related to the duties to defend and indemnify, the scope of occurrence-based coverage, long-tail exposures and allocation, lost policies, and bad faith. **First-Party Property** – Our coverage lawyers have extensive experience with first-party property insurance claims that arise from all types of losses. In complex, first-party commercial property coverage litigation, we consult on coverage issues from early in the claim adjustment process through coverage litigation. This work includes examinations under oath, appraisals, mediations, arbitrations, trials, and appeals. We handle disputes involving catastrophic losses, property damage, business interruption and other economic losses, hurricane-related losses, floods, sinkholes, construction defects, breakdown or malfunction of boilers and other critical equipment, application of sublimits, trigger of coverage, number of occurrences, and bad faith. **Merger & Acquisition Representation and Warranty Insurance** – We have a sophisticated practice representing issuers of insurance for the representations and warranties that accompany merger and acquisition transactions. By combining the coverage experience of our insurance practitioners with the detailed analysis and understanding of the deal developed by our corporate securities and merger and acquisition attorneys, we bring to each claim analysis the level of critical expertise needed to evaluate these complex claims. **Excess and Umbrella** – Our lawyers handle litigation over the duties of excess and umbrella carriers. These cases involve issues including the insolvency of an underlying primary insurer, the interpretation of “other insurance” clauses, the effect of an insured’s settlement without consent, the insured’s reporting obligations, the significance of a self-insured retention, “follow form” provisions, choice-of-law issues, and apportionment issues. **Environmental** – On behalf of insurers and their insureds, we handle claims for environmental spills and contamination under CGL policies and specialty environmental policies. These suits involve the interpretation of both the “sudden and accidental” and “absolute” pollution exclusions, reasonable and necessary costs of cleanup, the duty to defend CERCLA claims and other pre-litigation matters, and the myriad coverage issues that frequently arise in this type of claim. We have extensive experience with the major underwriters of policies insuring against environmental contamination. We have represented insurers in complex declaratory judgment actions regarding coverage for environmental claims under both pollution legal liability policies and construction pollution liability policies as well as claims for coverage under policies insuring underground and

aboveground storage tank systems. Our combined environmental law and litigation experience enables us to handle environmental insurance claims with a full understanding of the issues surrounding complex environmental cleanups. We have extensive experience handling issues such as industrial and domestic wastewater; storage tank regulation; and landfill, used oil, and hazardous waste permitting and regulation. We also negotiate consent orders and remediation plans associated with the cleanup of hazardous waste, petroleum, chlorinated solvents and other contaminants with local, state, and federal environmental agencies. In addition, we have extensive environmental contamination litigation experience that includes handling claims for property damage, personal injuries, and medical monitoring stemming from alleged exposure to on- and off-site contaminants. ***Fidelity, Commercial Crime, and Financial Institution and Broker Bonds*** – Our lawyers investigate claims, analyze coverage and salvage issues, work with financial and forensic consultants to quantify damages, and represent insurers in litigation under all insuring agreements of financial institution, broker, and other theft and fidelity bonds and crime policies. We have authored multiple chapters in publications about coverage under such policies. ***Construction and Surety*** – In construction-related matters, we regularly counsel insurers on CGL, builder's risk, and professional errors and omissions policies. We also represent sureties in various payment and performance bond claims. This work includes helping insurers and sureties draft policy and bond language. We also address regulatory issues regarding various insurance control programs. Our lawyers are experienced in all types of construction claims including those involving termination of contractors, payment claims, delay claim analysis, construction defects, differing site conditions, and design professional liability. ***Data Security and Data Privacy*** – Our lawyers have extensive experience handling privacy and security issues for clients nationwide. We frequently speak and write on data privacy and security law, and our privacy and security law clients operate in various industries, including insurance. We are well-positioned to provide compliance assistance regarding the privacy and security of individually identifiable data. Our lawyers are knowledgeable regarding federal and state privacy laws (e.g., Gramm-Leach-Bliley, HIPAA, CPNI), and the privacy and security standards used in various industries. We help clients draft and implement policies and procedures that will protect their sensitive data while complying with the requirements of state and federal privacy and security laws. We also help clients respond to data and security breaches. This work includes the required reporting to state and federal agencies, dealing with the implications for customers, vendors, and employees; and handling potential, related litigation.

Cyber Coverage and Disputes – Carlton Fields' coverage team has been at the forefront of counseling and litigating cyber coverage disputes for insurers since long before data breaches made news, or stand-alone cyber coverages were developed. Carlton Fields' coverage lawyers have handled some of the most high-profile and high-dollar cyber coverage disputes. We have counseled insurers regarding coverage for data breaches, malware attacks, political hacktivism, social engineering/phishing/spoofing schemes, and misappropriation of intellectual property.

We have analyzed cyber coverage issues under traditional coverages, including CGL and fidelity policies (and particularly the “computer systems fraud” rider), as well as newer cyber-specific package policies, that include first-party coverages, such as data restoration and replacement, business interruption, and breach response costs, as well as third-party liability coverages, including security and privacy liability, derivative vendor and contractual liability, and internet media liability.

Defending Insureds

- ***Corporate Officers and Governance*** – We regularly defend individuals and entities that are insured by our clients under D&O, E&O, EPL, policy legal liability, fiduciary liability, and miscellaneous professional liability policies. We handle high-risk matters of all types, including class actions, multidistrict litigation, adversary proceedings in [bankruptcy](#), and all stages of disputes, from pre-litigation counseling through appeal. Our experience includes handling claims involving the [Telephone Consumer Protection Act](#) and data privacy. We routinely defend insureds and their employees, directors, and officers against claims for [securities fraud](#), breach of fiduciary and other duties imposed on corporate officers, discrimination, harassment and other violations of state and federal civil rights statutes, [whistleblowing](#) and retaliation, interference with business and contractual relations, [unfair trade practices](#), fraud, and [defamation](#). Our cases often arise in the context of disputes over corporate governance, including those between majority and minority shareholders. We also defend insureds in [ERISA](#) cases. Numerous attorneys authored chapters in the *Handbook on ERISA Litigation*, published by Aspen Law & Business.

Corporate Counseling and Litigation

- ***Claims Practices*** – We handle national and state [class actions](#) and individual lawsuits arising out of claims practices and procedures. These matters include disputes over the use of electronic systems and databases to help process claims under automobile, homeowners, and workers compensation insurance policies; premium reporting practices as related to residual market obligations; the use of consumer credit information for claims investigations; medical records handling in workers compensation claims; implementing agreements with preferred provider organizations and direct repair programs; enforcing conditions on full replacement cost and “ordinance or law” coverage; calculating general contractors’ overhead and profit; and calculating reimbursements under medical payments coverages. In other cases, we have represented third-party administrators in disputes over claims handling, and counseled them on information technology and data privacy issues. Our lawyers also counsel claims organizations on the design and implementation of claims practices and procedures. We have helped manage communications and negotiated contract terms with vendors of claims-processing products. We have represented insurers in disputes with those vendors and in disputes with medical device manufacturers over fraudulent billing and referral practices. ***Underwriting Practices*** – We represent clients in class action and individual litigation involving the use of [consumer credit information](#) for underwriting and marketing purposes, nonrenewal and termination of property and liability policies, actual and alleged misrepresentations by brokers and agents, sale of lender-placed property insurance, reformation of policies, enrollment of residential tenants on surety bonds, underwriting requirements for surplus lines policies, and insurers’ obligations to lienholders and additional insureds. We also provide training to underwriters and staff on complex issues of environmental law, and on regulatory developments that may impact underwriting environmental riders. In addition, we help design protocols for compliance with the notice requirements of the Fair Credit Reporting Act. ***Regulatory & Transactional Counseling*** – Our lawyers have significant experience representing property and casualty insurance and reinsurance clients in regulatory matters before departments of insurance in the U.S. and several non-U.S. jurisdictions (e.g., Bermuda and United Kingdom). Our services encompass the full range of regulatory issues faced by insurers, reinsurers, and other regulated entities within the insurance and reinsurance industry. We handle matters involving insurer and reinsurer financial condition and solvency; ratemaking; company licensing; registration and approval of new products; approval of formation, [acquisition or merger](#) of insurers and reinsurers; insurer examinations, including market conduct examinations; surplus lines issues; reinsurance issues; receivership matters; [insurance tax issues](#); and producer licensing and regulation. We also have significant experience in administrative and other regulatory litigation, including agency rule challenges, regulatory investigations under state and federal false claims acts and unfair trade practice statutes, and defending clients in related individual and class action civil suits. In addition, we counsel and defend insurer clients regarding [protection of trade secrets](#) in connection with regulatory filings and disclosure under state public records laws. We represent property and casualty insurance and reinsurance clients in the formation, acquisition, and disposition of insurance companies, reinsurance companies, captives, and related entities, and

handle all regulatory aspects of reporting or seeking approval of such transactions with state insurance regulators. Additionally, we provide advice and counsel concerning producer and third-party contracts. **Reinsurance** – We provide a broad range of services to property and casualty insurers and reinsurers. These services include representing cedents and reinsurers in litigation or arbitration arising from claims, underwriting, or other issues; providing coverage advice to cedents or reinsurers; representing ceding insurers in catastrophe bonds; negotiating and documenting reinsurance transactions; reviewing reinsurance contracts; advice and counsel on fronting arrangements; captive insurers; reinsurance claims monitoring; and representing reinsurers in insurer insolvency proceedings.

Experience

General Property and Casualty

- *Harbour House (Bal Harbour) Condo. Ass'n, Inc. v. Am. Int'l Specialty Lines Ins. Co.*, No. 15-28921 (Fla. Cir. Ct. 2016) (obtaining pre-answer dismissal of coverage action involving alleged property damage claims).
- *Carfax Inc. v. Illinois Nat'l Ins. Co.*, No. 655198/2016 (N.Y. App. Div.). On March 1, a New York appeals court ruled that Carlton Fields client [American International Group Inc.](#) (AIG) need not defend [Carfax Inc.](#) against a \$50 million suit alleging the company monopolized the vehicle history report market. The decision affirmed the lower court's determination that the matter did not fall within the insuring agreement and that, even if it did, it would be precluded from coverage based on the application of the policy's antitrust exclusion.
- *Langdale Co. v. Nat'l Union Fire Ins. Co. of Pittsburgh*, 110 F. Supp. 3d 1285 (N.D. Ga. 2014), *aff'd*, 609 F. App'x 578 (11th Cir. 2015) (trial and appellate counsel for directors and officers liability insurer in suit for coverage by closely held entity seeking \$10 million in defense costs as well as penalties for bad faith for suit by minority shareholders for fraud in the sale of securities; obtained summary judgment that was upheld on appeal).
- *Weitz Co. v. Lexington Ins. Co.*, 982 F. Supp. 2d 975 (S.D. Iowa 2013), *aff'd*, 786 F.3d 64 (8th Cir. 2015). As the lead defense firm in the Southern District of Iowa, obtained a defense summary judgment where the plaintiff general contractor improperly attempted to obtain a \$50 million-plus double recovery in equity against a project owner's post-construction property insurers. The general contractor was previously sued for its materially deficient construction of the project in the Southern District of Florida. It settled with the project owner after recovering several million dollars more from its liability insurers, subcontractors, and their liability insurers. As part of the appellate team in the Eighth Circuit Court of Appeals, we defended entry of this summary judgment on appeal and obtained affirmance.

- *Office Depot, Inc. v. Nat'l Union Fire Ins. Co. of Pittsburgh*, 734 F. Supp. 2d 1304 (S.D. Fla. 2010), *aff'd*, 453 F. App'x 871 (11th Cir. 2011). Summary judgment in favor of insurer on insured's claims of more than \$24 million in investigation costs.
- *Am. Safety Indem. Co. v. Sto Corp.*, 802 S.E.2d 448 (Ga. Ct. App. 2017) (appellate counsel to insurance company in action alleging coverage by estoppel due to alleged failure to provide adequate notice of reservation of rights in defense of underlying action and statutory bad faith).

Insurance Coverage, Monitoring and Bad Faith

- *Cty. of Suffolk v. Lexington Ins. Co.*, No. 604661/2017 (N.Y. Sup. Ct. 2018) (obtaining summary judgment for second layer excess insurer in dispute involving E&O coverage provided by an excess liability policy on grounds that the underlying claim did not involve a "wrongful act" implicating the policy's insuring agreement, lacked the requisite fortuity required by New York law, and was barred by the policy's breach of contract exclusion).
- *Unimax Corp. v. Continental Ins. Co.*, No. 2016-cv-279282 (Ga. Super. Ct. 2017) (granting motion to dismiss environmental insurance coverage action), *aff'd*, (Ga. Ct. App. 2018).
- *Nat'l Union Fire Ins. Co. of Pittsburgh v. Roman Catholic Diocese of Brooklyn*, No. 653575/2014 (N.Y. Sup. Ct. 2017) (insurance coverage dispute involving underlying claims of sexual/physical abuse, granting motion for partial summary regarding pro rata allocation of defense and indemnity costs, number of occurrences, and exhaustion of multiple self-insured retentions).
- *Roman Catholic Diocese of Brooklyn v. Nat'l Union Fire Ins. Co. of Pittsburgh*, 87 A.D.3d 1057 (N.Y. App. Div. 2011), *aff'd*, 991 N.E.2d 666 (N.Y. 2013) (summary judgment for insurers in a dispute concerning the number of occurrences for underlying claims of sexual abuse, exhaustion of multiple SIRs, pro rata allocation, and waiver under New York law).

Insights

11.20.2023

Explosives Manufacturer's Pollution-Related Claim Blown Up by State-Specific Endorsement

11.14.2023

Ninth Circuit Finds Excess Carrier Owes Nothing to Insured Who Failed to Obtain Prior Written Consent to Settlement

11.03.2023

Fifth Circuit Clarifies Meaning of “Advertising Idea” in Personal and Advertising Injury Coverage Section of Standard CGL Policy

10.06.2023

Washington Appellate Court Finds Insureds’ Failure to Provide Statutory Notice of Intent to Sue Did Not Void Default Judgments Against Insurer

09.29.2023

New York Federal Court Enforces “Third Party or Contracted Security” Exclusion to Abrogate Duty to Defend for All Defendants in Assault Suit

09.15.2023

Fifth Circuit Holds No Uninsured Motorist Coverage for Lyft Driver Following Crash

09.08.2023

Alabama Federal Court Finds No Duty to Defend Lawsuit Alleging Concealment of Defects in Sale of Home

08.28.2023

Cause and Effect: Southern District of Florida Determines Parkland Shooting Constituted One Occurrence

08.18.2023

No Paying Over Slow Milk? Wisconsin Appellate Court Finds Intentional Act by Cattle Feed Supplier May Be “Occurrence” Under CGL Policy

08.11.2023

Eighth Circuit Finds Assault & Battery Exclusion Bars CGL Coverage for Bar Patron’s Gunshot Injury

07.28.2023

Second Circuit Gives Lesson in Interplay Between Construction Contracts and CGL/Umbrella Policies

07.24.2023

Georgia Appellate Court Finds Insurer's Intended Acceptance of Presuit Settlement Offer Invalid, As Check Was Issued Earlier Than Time Specified by Claimant

07.19.2023

New Attestation for Florida Residential Property Insurers

07.14.2023

Eleventh Circuit Holds Fungi or Bacteria Exclusion Inapplicable Because Cooling Tower Containing Legionella Was Not a "Building" or "Structure"

06.30.2023

Seventh Circuit Declines to Enforce Plain Language of Distribution of Material Exclusion in Business Liability Policy

06.22.2023

Florida Enacts Bill Imposing Regulatory Oversight Relating to Insurer Accountability

05.31.2023

Fifth Circuit Holds No Liability Coverage for Negligence Claim Premised on Allegations of Intentional Conduct

05.23.2023

New Florida Law Banning Real Estate Ownership by Foreign Principals From Certain Foreign Countries

05.19.2023

Second Circuit Affirms Ruling That Prior Knowledge Exclusion Barred Coverage for Legal Malpractice Lawsuit

05.16.2023

New Florida Law Banning Real Estate Ownership by Foreign Principals From Certain Foreign Countries

05.12.2023

11th Cir. Affirms That Georgia's Implied Waiver Doctrine Cannot Be Used to Create Coverage

05.10.2023

No Coverage for Delinquent Payments: Mobile Home Park Operator Cannot Recover for "Expected or Intended" Injuries

04.21.2023

Third Circuit Limits Pennsylvania's "Reasonable Expectations" Doctrine

04.17.2023

Mass. Court Holds Unprovoked Attack Not "Physical Abuse" Within Meaning of Abuse and Molestation Exclusion

03.31.2023

Florida Broadens Use of Proposals for Settlement by Enacting House Bill 837: Proposals for Settlement Can Now Be Served in Civil Insurance Cases Seeking More Than Just Damages

03.27.2023

Florida Overhauls Bad Faith Law, Repeals One-Way Attorneys' Fee Statutes, Adopts Modified Comparative Negligence and Other Tort Reforms

03.24.2023

New Jersey Federal Court: Policyholders Must Plead Specific Policy Provisions to Maintain Suits

03.17.2023

Known Means Known: Eleventh Circuit Requires Actual Knowledge to Trigger Insured's Notice Obligation

03.10.2023

Seventh Circuit Finds Notice-of-Impairment Exclusion Bars Coverage for Warehouse Fire

03.03.2023

Florida Appellate Court Affirms Work Product Protection for Insurer's Claim File

02.27.2023

Florida Supreme Court Holds That a Public Adjuster With Pecuniary Interest Cannot Qualify as a “Disinterested” Appraiser for Homeowner

02.20.2023

Ohio Supreme Court Finds Insured’s Ransomware Payment Not Covered Under Business Owners Policy

02.15.2023

No CGL Coverage for Opioid Distributor Sued for Economic Damages but Not Bodily Injury Damage

02.10.2023

New California Time-Limited Demand Statute for Insurance Claims Effective Now

01.27.2023

Florida Insurance Reform Special Session 2 – This Time Means Business

12.22.2022

New York Federal Judge Finds No Duty to Defend Based on War Exclusion’s Insurrection Clause

12.21.2022

Is the Broken Florida Homeowners Insurance Market Finally Fixed?

12.16.2022

Massachusetts Federal Court Affirms Coverage Disclaimer Based on Excess Carrier’s Strict Enforcement of Notice Requirement

12.05.2022

Seventh Circuit Holds Insurer Had No Duty to Defend or Indemnify Fireworks Distributor Following Fourth of July Fireworks Explosions That Injured Two Volunteers

11.18.2022

Third Circuit Holds Assault or Battery Exclusion Bars Coverage for Sex Trafficking Claims

11.14.2022

Seventh Circuit Finds Pleadings in Same Lawsuit Are “Related Claims,” Despite Addition of New Allegations and Defendants

11.10.2022

Eleventh Circuit Holds Buzz Words in Arbitration Demand Insufficient to Trigger Duty to Defend

10.28.2022

Eleventh Circuit Finds Claims-Made Policy’s “Correlating Claims” Provision Substantially Similar to “Related Claims” Provisions

10.21.2022

Insurer Not Liable for Law Firm Accused of Violating North Carolina Driver’s Privacy Protection Act

10.07.2022

Eleventh Circuit Affirms Dismissal of First-Party Property Complaint for Failure to Meet Pleading Standard

09.23.2022

No Coverage Under Cybercrime Endorsement for Florida Fraudulent Wire Transfer

09.16.2022

Investment Advisory Firm’s Unlawful Copying and Distribution of Industry Publication to Firm Employees Not Covered by Professional Liability Policy

09.09.2022

Fifth Circuit Leans on Well-Established Contractual Interpretation Doctrine to Preclude Coverage Under General Liability Policy

08.31.2022

Federal Court Rejects Computer Fraud Coverage for Social Engineering Loss

08.19.2022

Sixth Circuit Finds Unregistered Security Exclusion Bars Professional Liability Claim

08.12.2022

Ninth Circuit Finds Settlement and Two-Year Limitations Statute Barred “Bad Faith” Workers’ Compensation Suit by Man Struck by Lightning

08.08.2022

Federal Court Finds Selling Products in New Jersey Is Insufficient to Establish Personal Jurisdiction in Case Regarding Insurance Coverage for Underlying New Jersey Action

08.01.2022

Louisiana Supreme Court Finds “Assault and Battery Exclusion” Barred Coverage for Kidnapping at Insured’s Motel

07.29.2022

Sixth Circuit Holds Attorneys’ Fee Award Does Not Constitute Damages Under Professional Liability Policy

07.27.2022

Florida Announces Temporary Reinsurance Arrangement for Insurers in Light of Potential Rating Downgrades

07.15.2022

Federal Court Rules “Unauthorized Network Access Exclusion” Precludes Coverage for \$1.3M Payment From Hacker’s Fraudulent Email

07.08.2022

Southwest Marine and General Insurance Co. v. United Specialty Insurance Co.: A Lesson in Common Limitations of Additional Insured Provisions

06.07.2022

OIR Releases Details on New Reinsurance Program: Rate Filing for 2022-2023 Contract Year Due June 30

06.02.2022

D.C. Circuit Affirms Dismissal of Claims Against Reinsurers

05.31.2022

Second Circuit Concludes That Workers Who Deliver Baked Goods Are Not Transportation Workers and Must Arbitrate Their Claims

05.26.2022

New Legislation From Florida Special Session on Property Insurance Reform

05.23.2022

Florida Special Session on Property Insurance Reform: What Insurers Need to Know

05.11.2022

Southern District of New York Concludes That Equitable Tolling Does Not Save Untimely Petition to Confirm Foreign Arbitration Award

04.22.2022

Florida Federal Court Derails Railway's Coverage Suit Due to Prejudicial Two-Year Notice Delay

04.15.2022

Delaware Supreme Court Holds That "Related Claim" Standard Is Based on Plain Language of Policy

04.15.2022

New York Federal Court Confirms Arbitration Award Under Cyprus-Libya Bilateral Investment Treaty

04.13.2022

Eleventh Circuit Holds Tort Claimants Lack Standing to Challenge Judgment That Insurer Has No Duty to Defend

04.12.2022

Tenth Circuit Concludes Enforceability of Arbitration Clause Was Issue for Arbitrator

04.01.2022

Fifth Circuit Concludes That Compliance With Pandemic-Related Shutdown Orders Does Not Constitute "Direct Physical Loss of or Damage to Property" Under Louisiana Law

03.28.2022

Two Property and Casualty Bills Headed to Fla. Governor: What Insurers Need to Know

03.25.2022

Illinois Appellate Court Finds No CGL Coverage for Defective Elevator Suit

03.21.2022

D.C. Circuit Concludes That IMF Did Not Waive Immunity by Agreeing to Arbitration

03.11.2022

Delaware Superior Court Applies “Meaningful Linkage” Test for D&O Related Acts Analysis

03.04.2022

Georgia Federal Court Extinguishes Fire Claim Because of Insured’s Failure to Update Insurer on Home Use

03.01.2022

Fifth Circuit Determines a Deductible Buyback Policy Was a Named Perils Policy for Hurricane Harvey Flood Damage

02.22.2022

Ninth Circuit Concludes Domino’s Drivers Are Exempt From FAA

02.18.2022

Eleventh Circuit Finds Employer’s Liability Exclusion Ambiguous Under Alabama Law

02.04.2022

“Belt and Suspenders” Don’t Need Zip: Federal New York Court Rejects Timeliness Obligation for Optional Disclaimer

02.02.2022

Property Insurance Litigator's Handbook, Third Edition

02.02.2022

Ninth Circuit Reverses Order Compelling Arbitration

02.01.2022

Fifth Circuit Affirms Finding of No Coverage for Phished Funds Never “Held” by Insured

01.28.2022

Proposed Amendments to New York’s Comprehensive Insurance Disclosure Act Would Ease Burden on New York Litigants

01.21.2022

Ninth Circuit Affirms Coverage Denial Based on Insured’s Unreasonable Expectations

01.13.2022

Claim Managers Take Note: New York’s Comprehensive Insurance Disclosure Act Places New, Immediate, and Retroactive Disclosure Obligations Under CPLR 3101(f) on Defendants and Defense Counsel

12.23.2021

Sixth Circuit Finds No Coverage for Alleged Losses Related to COVID-19

12.22.2021

Second Circuit Rejects Arbitration-Ordered Procedure for Determining Religious Exemptions to Vaccines in Favor of Title VII Standards

12.20.2021

Chinese Insurers Look Beyond Infrastructure Risk in Latin America

12.20.2021

Sixth Circuit Concludes That Kroger Retirement Benefits Dispute Is Governed by Arbitration Clause in Collective Bargaining Agreement

12.10.2021

Sixth Circuit Affirms Ruling That Knowledge Exclusion Barred Coverage for Listeria Contamination Loss, Finds Green Bean Farmer Forfeited “Ambiguity” Argument

12.03.2021

Florida Appellate Court Rejects Third Party's Attempt to Rewrite Appraisal Clause in Property Insurance Policy

11.23.2021

Second Circuit Affirms Judgment Confirming Dismissal of Claims on Statute of Limitations Grounds and Order Enjoining Plaintiff From Refiling His Claims

11.12.2021

10th Circuit Finds No Coverage Under All-Risk Policy for Building Damage Caused by Soil Collapse Triggered by Burst Water Pipe

11.01.2021

Virginia Federal Court Orders Suppliers of Contaminated Fruit to Reimburse Subrogated Insurer for Defense of Smoothie Cafes

10.26.2021

Florida Federal Court Affirms Insurer's Denial of Hurricane Irma Claim Reported More Than Two Years Late

10.19.2021

Workers Compensation Rate Hearing and Proposed Cat Fund

10.19.2021

Workers' Compensation Rate Hearing and Proposed Cat Fund

10.15.2021

Florida's "Totality of Circumstances" Bad Faith Analysis Should Consider Claimant's Actions as a "Factor" but Not a "Focus"

10.13.2021

Fifth Circuit Finds Coverage for Untimely Fraudulent Wire Instruction Claim Is Not Barred Under D&O Policy

10.08.2021

California Federal Court Awards Insurer Reimbursement of Settlement Funds Paid on Insureds' Behalf After Finding Insurer Has No Duty to Indemnify in Wrongful Death Suit Involving Wrecked Ferrari

09.28.2021

Arizona Federal Court Finds False Pretenses Exclusion Bars Coverage for Fraudulent Wire Transfer Under Professional Liability Policy

09.24.2021

Consent to Settle: Third Circuit Reminds Insureds to Obtain Prior Written Consent Required by a Claims-Made Policy or Face Claim Denial, and Rejects Bad Faith Claim in Absence of a Finding of Coverage

09.17.2021

Eleventh Circuit Finds No Insurance Coverage for Dental Practice's COVID-19 Business Income Loss Under Georgia Law

09.01.2021

Sixth Circuit Determines the Term "Suspension of Operations" in Business Interruption Policy Requires "Complete Shutdown of Business Operations" Under Ohio Law

08.31.2021

Wisconsin Federal Court Finds That "Inadequate Consideration" Carve-Out Bars Coverage for Securities Fraud Settlement

08.20.2021

Delaware Court Finds Appraisal Proceeding Is Not a Claim "for a Wrongful Act" and Dismisses \$177M Coverage Action

08.13.2021

Florida Appellate Court Issues Opinion on Validity of Assignment of Benefits in Property Insurance Claim

07.30.2021

Illinois Supreme Court Finds That Alleged Sharing of Fingerprint Data Violates the Right of Privacy, a “Personal Injury” Triggering Duty to Defend

07.20.2021

South Carolina Supreme Court Authorizes Homeowner’s Insurers to Estimate Depreciation of “Embedded Labor Components” in Calculation of Actual Cash Value

07.16.2021

Florida Supreme Court Permits Insurer to Maintain Subrogated Malpractice Claim Against Counsel Retained to Represent Its Insured

07.13.2021

New York Federal Court Rejects Argument That SEC Investigation Constitutes a “Securities Claim” Under D&O Policies

07.02.2021

Insurer Prevails in First Substantive Appellate Ruling in COVID-19-Related Insurance Coverage Litigation

06.25.2021

PSA: Second Circuit Issues Reminder of the Consequences for Lack of Specificity in Disclaimers of Coverage for Personal Injury Claims Under New York Law

06.11.2021

Texas Federal Court Finds Law Firm’s Alleged 40,000 Unauthorized Claims Related to Deepwater Horizon Disaster Were Not “Professional Services” Triggering Duty to Defend

06.04.2021

Ninth Circuit Finds Refusal to Accept a Demand, Without More, Is Not a “Claim” Under Policy

05.25.2021

Colorado Federal Court Finds “Kona” Class Actions Did Not Trigger “Personal and Advertising Injury” Insuring Agreement

05.14.2021

Consistent With Nationwide Trend, Recent Decisions Applying Louisiana Law Find COVID-19 Does Not Cause Physical Loss or Damage

05.06.2021

Florida Senate Passes Legislation to Reform Litigation for Property Insurance Claims

04.30.2021

No More Runway for Florida COVID-19 Insurance Coverage Lawsuit

04.27.2021

Ninth Circuit Flags NFL Stadium Design and Construction as Intentional Conduct Resulting in Out of Bounds Claim for Occurrence Coverage

04.23.2021

Delaware Courts Secure Limited Scope of “Securities Claims” in D&O Policies

04.16.2021

Beware the Honest Hacker: Indiana Supreme Court Finds That Bitcoin Payment Is Not Necessarily Covered Loss Under Commercial Crime Policy Because Not Every Ransomware Attack Involves Fraud

04.02.2021

Arizona Supreme Court Finds That Reasonableness of Insurer’s Refusal to Consent to Settlement Under D&O Policy Is in the Eye of the Insurer

03.30.2021

Gluing Feathers to a Phone Does Not Make a Turkey: Seventh Circuit Finds Mere “Negligence” Label and “Stitched Together” Factual Allegations Do Not Trigger Duty to Defend Aggressive Robocall Lawsuit

03.26.2021

“Specific” Means “Specific” – Florida’s Bad Faith Statute Must Be Strictly Construed

03.19.2021

Texas Federal Court Finds No Coverage Under Crime Policy for Phishing Scheme Because Insured Did Not “Hold” Diverted Funds and Suffered No Direct Loss

03.12.2021

Delaware Supreme Court Affirms Insurability of Fraud and Larger Settlement Allocation Rule

03.05.2021

New Jersey Federal Court Holds Virus Exclusion Bars Coverage for Car Dealerships’ COVID-19 Losses; Rejects Public Policy Argument Based on Pending Legislation

02.26.2021

New York Court Finds Securities Settlements Not Covered by D&O Policies Due to Insured Capacity and Uninsurable Loss Issues

02.24.2021

Target Data Breach Not Covered Under CGL Policy: Court Rejects “But-For” Theory for Loss of Use Damages Where There Was No Evidence of Value of the Use of Payment Cards

02.24.2021

Should Defendants Seek Stays of Class Actions Pending the Supreme Court’s Upcoming Decision on Article III Standing for Absent Class Members?

02.19.2021

New York First Department Clarifies Effect of New York Insurance Law Section 3420 on Claims-Made-and-Reported Policies

02.05.2021

Florida Supreme Court Defines Damages Recoverable by First-Party Insureds in Actions Alleging Breach of Policy

02.03.2021

Florida Appellate Court Determines Faulty Workmanship Exclusion in Homeowner’s Policy Is Not Ambiguous and Thus Damage Caused by Contractor’s Conduct Is Not a Covered Loss

01.29.2021

Outlier Decision of New York Appellate Court Denies Insurer's Right to Recoup Defense Costs Even Though Court Found No Duty to Indemnify

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Pennsylvania Federal Court Refuses to Dismiss Bad Faith Claim, Even Though Insurer Timely Made Demanded Payments

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New York Federal Court Finds Insured’s Failure to Provide Notice of Subpoena Did Not Bar Coverage for Later Lawsuit

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New York Among the Latest States to Propose Legislation That Would Require Insurers to Cover COVID-19 Business Interruption Losses

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Massachusetts High Court Upholds Consent-to-Settle Provision, Protecting Insurer Who Did Not Have the "Final Say"

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New York Appellate Court Affirms Denial of Discovery Into Other Hurricane Sandy Claims

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Ohio Appellate Court Rejects Policyholder's Notice-Prejudice and Continuity of Coverage Arguments

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Connecticut Supreme Court Fortifies Crumbling Foundation Claim Denials in Trio of Insurer Victories

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Eleventh Circuit Rejects Insurer-Defended Policyholder's Bid to Expand Florida's Bad Faith "Excess Judgment Rule" to Include Collusive Settlements Concocted Without Insurer's Consent

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Look No Further Than the Insuring Clause: Ill-Gotten Gains Do Not Constitute Covered “Loss”

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New York Supreme Court Holds Documents Created By Counsel During Claims Handling Were Not Privileged

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Florida Court Holds It Was “Miscarriage of Justice” to Deny Insurer Award of Appellate Fees

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The Hurricane is Coming in Five Days - Are We Ready for This?

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New York’s Highest Court Holds Untimely Disclosure Is Not an Untimely Disclaimer

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When Should an Insurer Deny Coverage? The Second Circuit Provides Guidance on What Constitutes a Reasonable Time by Which to Deny Coverage Under New York Law

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Colorado Federal Court Rejects Attorney-Client Privilege for Communications Between Insurer’s Claims

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New York State Court Affirms All-Sums Allocation Method

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EDNY “Teas” It Up On Additional Insured, Finds Insurer May Withdraw Defense and Recoup Defense Costs

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Missouri Appeals Court Rules That Insurer Must Pay Double Policy Limits in Medical Malpractice Claim

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Baltimore's Three-Week Ransomware Is a Warning for Other Local Governments to Prepare for Cyberattacks

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Back to Basics: The Georgia Court of Appeals Distinguishes Acceptance From Counteroffer

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Tennessee Supreme Court Holds That Replacement Cost Less Depreciation Does Not Allow for Depreciation of Labor When Calculating Actual Cash Value of a Property Loss

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Pending Approval By Governor, Companies That Rent Industrial "Special Mobile Equipment" Will No Longer Be Subject to Strict Vicarious Liability for the Actions of Their Renters

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Florida Legislature Passes Sweeping Assignment of Benefits Legislation

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California Federal Court Holds Scope of Duty to Defend Is Determined by the Language of the Contract

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Second Circuit Holds "Offering for Sale" Is "Advertising Injury" Under CGL Policy, But Allegation No

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Court Finds No Coverage for \$42 Million False Claims Act Suit Due To Late Reporting

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Another Sentinel Strike: California District Court Dismisses Financial Elder Abuse and Fraud Claims

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Florida Insurance Commissioner Issues Hurricane Michael Emergency Order

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Eleventh Circuit Affirms No Coverage Under Computer Fraud Provision of Insurance Policy

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Georgia Federal Court Rules on Questions of Efficient Proximate Cause, Manifestation/Continuous Trigger and Pro Rata Allocation of Damages

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The Privilege Maintains Its Power: Texas Supreme Court Blocks Discovery of Insurer Attorney’s Billing Information

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District Courts Buck Trend on Fidelity Coverage for Social Engineering and Business Email Compromise Schemes

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“Arising” tide for insurers: 11th Circuit takes expansive view of Prior Acts Exclusion

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Poisoning the Well: Washington Supreme Court Applies Efficient Proximate Cause to Eviscerate Pollution Exclusion in Liability Policy

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WV Court Rules Earth Movement Exclusion Unambiguously Precludes Coverage Regardless of Whether Landslide Was a Man-Made or Naturally-Occurring Event

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One Way Out: California District Court Finds Insurer Had Right to Pay Limits Despite Possible Defense

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Shot Through the Heart, But the Excess Carrier Isn't to Blame: Georgia Federal Court Finds Policy's Broad Firearms Exclusion Bars Coverage

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Fifth Circuit Reverses Mississippi District Court's Interpretation of "Ambiguous" Language to Nullify Defense Within Limits Coverage

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Multiple Instances of Defectively Designed, Manufactured, or Installed Windows Does Multiple Occurrences Make

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Oregon Supreme Court Revives Century-Old Statute to Award Attorney's Fees to Policyholder

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Texas Supreme Court Clarifies When Insured May Recover Policy Benefits

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Blowing the Whistle on Willful Misconduct: California Court holds that False Claims Act Suits Are Uninsurable Due to Public Policy

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Reading the Crystal Ball: Reservation of Rights Letters under South Carolina Law in the Wake of Harleysville Group Insurance v. Heritage Communities, Inc., et al.

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Who is an Insured and What is a Claim? Circuit Courts Offer Guidance in Applying the “Insured vs. Insured” Exclusion in D&O Policies

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NY DFS Cybersecurity Regulations Take Effect March 1, 2017

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Recent Florida Legislation Will Allow for Creation of Specialty Sinkhole Coverage Lines

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Court Finds that False Claims Act Suit Alleges Uninsurable “Willful Acts”

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Your Online Insurance Sales Can Land You In Court

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Sloppy Claims Handling Exposes Insurer to Bad Faith Claims

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Still No Consensus On Price Optimization In Calif.

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The HIPAA Audits are Coming, The HIPAA Audits are Coming!

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Price Optimization Class Actions Produce First Rulings

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Subrogation Claims Aren't 'Consumer Debts' Under Fla. Law

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Not-So-Sudden Impact: Insurers Face New Breed of Fair Housing Act Claim

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“Contractor?” I do not think that employers’ liability exclusion means what you think it means

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McCarran-Ferguson Lands A Jab On Federal Arbitration Act

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Policy Language Aside, Insurer is Obligated to Pay in California

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Court Rejects Attenuated Argument of Automobile Insurer Liability

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Florida Supreme Court Thwarts Attempt to Circumvent “Exclusive Remedy” Provision

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Cyber Risk as a Regulatory Issue: Tales of Encryption

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New York’s Late Notice Statute Leaves No-Prejudice Rule Intact for Out-of-State Policies

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Maryland Insurance Administration Prohibits Use of Price Optimization to Rate Property & Casualty Insurance Policies

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Federal Courts Help Define the Borders of “Professional Services”

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Court Rejects Workers Comp Insurer’s Challenge to Big Pharma

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Washington Supreme Court Narrows Efficacy of Late Notice Defense

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Denying Coverage Based on Advertising Injury, Court Finds Corporations are Not Persons

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Seventh Circuit Confirms: In-House Insurance Lawyers Are as Good as the Name-Brand Product

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Appellate Court Rejects “Explosive Corpse” Theory

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Eleventh Circuit Maps a Route Around Four Corners

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Title Insurers Face a Decade of New Challenges

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In the Seventh Circuit, Moral Hazard Does Not Create Moral Clarity

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In a Tennessee Coverage Dispute, All Insured Things Must Come to an End

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Washington Makes it Riskier for Insurers to Talk to Lawyers

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