



## Charles W. Stotter

OF COUNSEL

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## Overview

Charles Stotter is a commercial litigator whose practice focuses on defending clients in matters involving insurance coverage, securities, and professional liability in federal and state courts and in enforcement proceedings before regulatory agencies.

Charles represents insurance carriers in coverage and bad faith actions and insured directors and officers in breach of fiduciary duty actions. He has also represented public companies and their directors and officers in securities class actions and shareholder derivative litigation, often involving reporting, disclosure, and insider trading issues. He has litigated employment and breach of contract disputes, and prosecuted and defended trademark litigation matters. He has counseled clients in disputes over closely held corporations and business contracts, and advised clients on risk management and liability issues. In litigation, enforcement, and related proceedings, he has represented accountants and accounting firms, and defended attorneys against malpractice claims.

In complex insurance coverage actions, Charles has obtained favorable resolutions with his focused litigation and motion practice that exposed the opposing parties' weaknesses and sustained his clients' positions, including in defending a claim seeking fidelity insurance coverage arising out of the Bernard Madoff scheme and in defending claims seeking professional liability coverage for nationwide lawsuits by mortgage borrowers arising out of allegedly improper lender-placed insurance. He also obtained dismissal of claims seeking coverage under a general liability policy because the insured could not establish its claims were covered. In shareholder class actions, Charles obtained dismissal of federal securities fraud claims brought against a public company and its directors and officers. He secured dismissal of state law fiduciary duty claims brought against directors of a public company in shareholder derivative actions. Charles also obtained recovery for a putative minority shareholder in a closely held corporation.

As local counsel and co-counsel, Charles coordinated and conducted litigation in a \$14 billion multidistrict securities fraud and accountant liability case. Through a defense verdict at trial and upholding that verdict on a subsequent appeal, Charles co-chaired the successful defense of a \$7 million securities fraud and accountant liability claim. Without personal liability to his accounting firm clients, he defended and favorably settled a \$40 million professional negligence claim arising from the failure of a securities broker-dealer.

As prior in-house counsel for the Federal Deposit Insurance Corp., Charles managed and directed more than 40 investigations and the resulting litigation of claims against professionals affiliated with 20 failed banks. Notably, he achieved a 29% reduction in litigation costs through the use of in-house professionals.

He has often addressed industry groups on insurance coverage, securities, and professional liability matters. One of Charles' published works was cited by the New Jersey Supreme Court as an authority in an important opinion on attorney malpractice issues.

Charles also is involved in his community, serving for many years as an officer and on the board of a local community organization. He is active in bar association activities and currently serves as a vice chair of the ABA Section of Litigation's Commercial and Business Litigation Committee and editor in chief of its website content.

## Experience

- Obtained partial summary judgment on key issues in the defense of an insurance coverage action in the New York State Supreme Court, Commercial Division, arising out of underlying nationwide claims involving lender-placed insurance.
- Defended on motions and appeal an international insurer in a fidelity bond coverage action in New York State Supreme Court, Commercial Division, arising out of the insureds' investment of funds with Bernard L. Madoff. *Jacobson Family Invs., Inc. v. Nat'l Union Fire Ins. Co. of Pittsburgh*.
- Defended and favorably settled executive liability insurance coverage actions in New Jersey state court.
- Defended and favorably settled a kidnap and ransom insurance coverage action in the Southern District of New York.

- Defended a public company and its executive officers in securities fraud class actions in the Eastern District of New York, and successfully defended the public company’s directors and officers in shareholder derivative actions in the Eastern District of New York and in the Delaware Court of Chancery. *In re NBTY, Inc. Sec. Litig.*

## Areas of Focus

### Practices

- Labor & Employment
- Litigation and Trials
- Intellectual Property
- Cybersecurity and Privacy
- Life, Annuity, and Retirement Litigation
- Cyber Insurance Coverage Disputes

### Industries

- Property & Casualty Insurance

## Insights

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

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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

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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

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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

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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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04.17.2020

Louisiana, Pennsylvania, and South Carolina Join in Introducing Legislation That Would Force Insurers to Retroactively Cover COVID-19 Losses

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04.01.2020

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

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## News

02.01.2019

Media Shines Spotlight on Carlton Fields' New Office and Lawyers; Firm Opens New Jersey Office and Bolsters Real Estate and Insurance Litigation Practices

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01.07.2019

Carlton Fields Opens New Jersey Office, Adds Five Attorneys

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## Professional & Community Involvement

- American Bar Association
  - Section of Litigation
    - Vice Chair and Website Editor in Chief, Commercial and Business Litigation Committee (2016–present)
      - Awarded Most Valuable Committee [Website Content] (2020–2021)
      - Awarded Best Committee Website (2017–2018)
    - Content Management Committee (2019–present)
    - Editorial Board, Commercial and Business Litigation Committee Newsletter (2011–2016)
    - Editor in Chief, Commercial and Business Litigation Committee's *Practice Points*
    - Co-Chair, Accountant Liability Subcommittee, Professional Liability Litigation Committee (1997–2003)

- Professional Liability Underwriting Society
- New Jersey State Bar Association
- New York State Bar Association

## Speaking Engagements

- ABA Section of Litigation Fall Leadership Meeting, Editors' Symposium (September 28, 2021)
- ABA Section of Litigation Fall Leadership Meeting, Editors' Symposium (September 30, 2020)
- ABA Section of Litigation Fall Leadership Meeting, Editors' Symposium (October 3, 2019)
- ABA Section of Litigation Fall Leadership Meeting, Editors' Symposium (September 18, 2014)
- "Bridge the Gap: Ethics, Skills & More," New York City Bar Association (December 11, 2011)

## Credentials

### Education

- University at Buffalo School of Law (J.D., 1977)
- State University of New York at Binghamton (B.A., with honors, 1974)

### Bar Admissions

- New York
- New Jersey

### Court Admissions

- U.S. District Court, Southern District of New York
- U.S. District Court, Eastern District of New York
- U.S. District Court, District of New Jersey
- U.S. Court of Appeals, Third Circuit
- U.S. Court of Appeals, Second Circuit

### Clerkships

- Hon. George C. Pratt, U.S. District Court, Eastern District of New York

## Background

- Principal, Bressler, Amery & Ross, P.C., Florham Park, NJ (2016–2018)
- Counsel, Bressler, Amery & Ross, P.C., Florham Park, NJ (2011–2015)
- Counsel, Edwards Wildman (2000–2011)