

## Insurance

The Insurance Coverage Practice focuses primarily on corporate clients seeking insurance coverage under a wide range of policies and for many different types of losses. We have helped companies obtain coverage under policies for commercial general liability, cybersecurity, business interruption, director and officer, professional liability, employment practices, and hurricane and other catastrophic losses. Our lawyers have tried massive coverage claims involving hundreds of millions of dollars, and have also favorably settled many smaller contested claims. We are well-versed in the complexities and the practicalities of insurance coverage disputes, and we focus on the most efficient ways of resolving claims before trial or arbitration. Most coverage disputes hinge on issues of law, and we are skilled at presenting the nuances of what can be complicated law in many different jurisdictions.

### Representative Matters by Lawyers in the Firm:

- Represented manufacturer at trial for coverage of ongoing asbestos bodily injury claims, in dispute between client and multiple excess and umbrella liability insurers. Coverage disputes with various liability insurers were resolved before or during trial; disputes with several other insurers are ongoing. *John Crane v. Admiral Insurance Co. et al*, Circuit Court of Cook County.
- Represented two private equity firms seeking insurance coverage of actions involving contested “holdback amount” payments to portfolio company sellers. The matters involved the issues of coverage for breach of contract claims as well as asserted “disgorgement.” Through confidential mediations, the Firm attained coverage for underlying breach of contract settlements.
- Represented liability insurer plaintiff in multimillion dollar subrogation claim against a product liability tortfeasor, following the death of a college athlete. The case settled during a jury trial prior to verdict after favorable witness testimony.
- Represented manufacturer of purportedly toxic product in commercial dispute over liability for thousands of underlying tort claims recently arising out of the operation of a business that was acquired and later resold through a series of corporate mergers and transactions. Successful no liability judgment for client, affirmed on appeal. *Fisher Controls Int'l, L.L.C. v. Pharmacia Corp.*, 2008 Iowa App. LEXIS 109 (Feb. 13, 2008).
- Trial counsel and appellate counsel representing a manufacturer of the anti-miscarriage drug, diethylstilbestrol. Resulted in coverage of defense costs and indemnities for over 1500 diethylstilbestrol personal injury cases, in a trial result affirmed by the California Supreme Court in the first decision by the Court regarding lost insurance policies. *Dart Industries, Inc. v. Commercial Union Ins. Co.*, 28 Cal.

4th 1059 (Cal. Aug. 19, 2002).

- Trial counsel in action for coverage of asbestos property damage. Obtained coverage in the trial court, affirmed in part on appeal, and announcing key principles of Illinois insurance law including that an insured should not have to retry its liability in underlying cases to obtain coverage, and the rule of horizontal exhaustion at the primary level. *US Gypsum Co. v. Admiral Ins. Co.*, 268 Ill. App. 3d 598 (1994).
- Trial counsel in insurance disputes filed in Michigan and Illinois over coverage of an Illinois jury's award of \$124 million in punitive damages involving use of a prescription pharmaceutical, obtaining judgment covering both punitive and compensatory damages. The case settled following judgments at the trial level and appellate proceedings in two courts. *Upjohn v. Aetna, et al.*, Michigan Court of Appeals; *Gibraltar Casualty Co. v. Upjohn*, Illinois Appellate Court.
- Coordinated the insurance coverage litigation in Indiana state court against more than 60 general liability and excess carriers seeking recovery for environmental investigation, cleanup and related expenses that the company incurred or may incur at more than 200 sites. The liabilities related to current business operations as well as formerly-owned businesses where the company retained liability for environmental matters, and the matter was further complicated by the insolvency of some of the carriers and some policies that were lost. Ultimately, settlements were received from all carriers.
- Trial counsel in environmental insurance coverage litigation against hundreds of insurers involving hundreds of millions of dollars for decades of coverage. *Aetna Cas. & Sur. Co. v. Dow Chemical Co.*, E.D. Mich.
- In a claim for hurricane damages, obtained a declaratory judgment that a windstorm exclusion did not apply to the insured's business interruption losses and the court awarded full coverage for the losses. *Stryker Corp. v. National Insurance Co.*, District of Puerto Rico, 2002.
- Represented a municipal police department and its officers in securing coverage for a multi-plaintiff §1983 lawsuit alleging wrongful arrest and policy brutality claims. Obtained full coverage for client under its law enforcement professional liability policy after resolution of disputes concerning construction of policy language.
- Represented Blue Cross and Blue Shield of Illinois in defending various breach of contract and ERISA claims for health insurance benefits to cover treatment of mental and physical illnesses. Cases held in Illinois federal and state courts, and were resolved pre-trial.
- Represented corporation in federal liability insurance coverage dispute as part of appointed 11 U.S.C. 327 special counsel trial team opposing liability insurers in federal court in Eastern District of Louisiana. Team prevailed at bench trial on behalf of the client, a manufacturer of asbestos-containing products, and court rejected bankruptcy plan objections by liability insurers who attempted to avoid coverage for future asbestos personal injury claims submitted to the bankruptcy trustee.