

Practices & Industries

Insurance and Reinsurance Disputes

Overview

As insurance and reinsurance companies develop new products and services, expand geographically and pursue other strategies in this complex, fast-paced and highly regulated industry, they look to Day Pitney for the sophisticated legal counsel they need. When disputes over coverage, business practices, reinsurance and other issues arise, they turn to us for experienced representation, sage advice and effective advocacy.

Protecting Our Clients' Interests

Representing insurance companies in a wide variety of disputes is central to our litigation practice. Consistent with our clients' goals on a case-by-case basis, we have been successful in taking an aggressive, cost-efficient approach to insurance and reinsurance disputes. We handle both individual and class action claims arising under life, disability, property and casualty policies, as well as extra-contractual claims of bad faith and unfair trade and insurance practices.

We are sensitive to the possible prejudicial effect of extra-contractual claims before juries and the disproportionate discovery burdens often placed upon insurers by those claims. We have developed strategies for limiting the disclosures made in discovery and the dissemination of information disclosed. Cedents and reinsurers from around the world work with our firm to handle a wide variety of matters, including disputes arising from property, casualty, life, disability and long-term care insurance.

We also help parties to structure creative solutions to disputes, including commutations, novations and other arrangements. In addition to insurance and reinsurance disputes, we represent insurance companies in substantial commercial litigation matters as well as in civil investigations by insurance departments and attorneys general. These matters may involve a variety of subjects, including investments in private placement offerings, the termination of agency agreements and claims for defamation arising out of publications on an agent's website.

Direct Liability and Casualty

We play a prominent role in many of the major coverage cases involving primary and excess casualty policies. In addition to achieving excellent results at trial, in arbitration, and in mediation in product liability, environmental pollution and other premises/operations claims, we also have prevailed on dispositive motions in numerous other cases.

In cases involving multiple carrier defendants, we often serve as lead counsel or as a member of the defense group steering committee, and we have taken through the discovery stage some of the most complex coverage actions in the country.

Reinsurance

We represent cedents and reinsurers in judicial and arbitral proceedings. Each year, our attorneys try a significant number of matters to conclusion and assist our clients to reach amicable resolutions to other disputes. We advise domestic and international companies on proceedings within and outside of the United States.

Our lawyers work on cutting-edge issues in the world of reinsurance and participate actively in ARIAS-U.S., by serving as presenters and conference co-chairs. Members of the Day Pitney insurance practice include the former Chairman of the Board of ARIAS-US. Our lawyers also frequently speak and publish on topics relating to reinsurance.

First Party Insurance

We have significant experience in handling first party insurance claims. Serving as national counsel to a large insurer, we handle cases in many states, including Alabama, Connecticut, Louisiana, Massachusetts, Michigan, Missouri, New York, Pennsylvania and Vermont. Our experience goes beyond the policy terms and conditions and extends to the engineering, financial and accounting issues surrounding the claims. Recently, we successfully defended an insurer in trials in Massachusetts and Pennsylvania and obtained summary judgment in a complex case involving a significant business loss claim in New York.

Life Insurance and Annuities

We represent a number of different insurance companies in individual and class action claims arising under life insurance policies. We defend claims of breach of contract, fraud, “vanishing premiums,” bad faith and unfair trade and insurance practices. These cases have involved interpreting many different policy provisions, including the calculation of benefits and change to beneficiary forms, as well as evaluating insureds' representations to obtain coverage. We also have filed rescission actions on behalf of our clients raising issues of fraud and misrepresentation.

Regulatory Insurance Proceedings and Litigation

We represent companies in all types of proceedings before state insurance departments, including the defense of consumer complaints, market conduct reviews, approval of reinsurance pooling arrangements, licensing and proceedings concerning change in control of domestic insurers. Over the past several years, we have assisted insurers in obtaining regulatory approval in a number of major corporate acquisitions.

Disability Insurance We defend on behalf of a number of different insurers individual suits and attempted class actions for disability benefits. In the course of that representation, we address a wide variety of issues arising under the individual and group policies, including contestability, misrepresentation, ERISA and the definition of own occupation, as well as the interpretation of settlement agreements intended to resolve earlier claims under the policies. We also have become familiar with a range of medical and psychiatric conditions giving rise to disability claims, and, through this and other experience, we have identified doctors and psychiatrists to assist us in analyzing the claims.

Other Services We have long held a position as a leading advisor to the industry, working with our clients to:

- Plan and execute mergers and acquisitions
- Gain regulatory approvals or overcome allegations of violations
- Form and license new subsidiaries
- Handle investment transactions and securities and banking law matters
- Guide them through reinsurance treaties, financial reinsurance, fronting arrangements, and inter-company transactions within affiliated groups
- Formulate and execute tax strategies