

Insurance Coverage & Litigation

PRACTICE CONTACTS

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Determining the scope and adequacy of your insurance coverage program can be a daunting task. It requires extensive knowledge of policy forms and endorsements, experience in dealing with policyholders, insurers and brokers, and an intimate knowledge of insurance law.

The Insurance Coverage Group at KMK possesses an exceptionally broad understanding of the many aspects of insurance law and regularly guides corporations and individuals through complicated insurance matters. KMK attorneys have the depth, experience and sophistication to handle the largest coverage disputes involving multiple insurers, as well as the relatively straightforward disputes involving two parties.

As a part of a full service law firm, our Insurance Coverage Group is able to call upon the experience of attorneys in banking, bankruptcy, corporate, employment, finance, real estate, securities and tax matters.

Policy Review, Analysis and Consultation

KMK attorneys serve our clients by reviewing and analyzing individual insurance policies or, frequently, entire insurance programs. Our goal is to ensure that the insurance policies purchased by our clients accurately state the coverage our clients desire. In many cases, we are able to obtain the benefit of enhanced policy provisions that are available only through negotiation with the insurance companies.

We consult with our clients about the possibility of insurance coverage under a variety of types of insurance policies, including comprehensive general liability, excess and umbrella liability, director and officer liability, professional liability, employment practices liability, fiduciary liability, property and casualty, and automobile policies.

Claims Handling / Litigation

When faced with a claim or loss, insurance policy benefits can be the most important asset a company or individual possesses. KMK attorneys routinely assist clients in presenting insurance claims to the appropriate insurers in such a way as to increase the likelihood of coverage. We take an aggressive approach to analyzing coverage and presenting detailed claims submissions to insurers for business and personal losses under various types of insurance policies. Our goal is to protect the rights and benefits promised to our clients under their insurance policies and to maximize the insurance recovery. We also strive to minimize legal costs and to maintain the important relationships that may exist between our clients and their insurers.

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Because we understand the impact of litigation on our clients, we focus on resolving coverage disputes as early as possible and without the necessity of litigation. However, litigation is sometimes necessary. In those instances, KMK's Insurance Coverage Group has a long history of successful trial experience in litigating insurance coverage, including defending clients against declaratory judgment actions filed by insurance companies.

Representative examples of our insurance coverage work:

- We review insurance programs (consisting of numerous insurance policies) for several public and private companies. These reviews identify: whether you are paying for coverage that is unnecessary; whether the proper entities are insured; potential gaps in coverage; and various coverage terms that could be modified to improve coverage. We often work with our clients' brokers to improve the coverage terms and to address the coverage issues identified in the review.
- We work with our clients to identify and evaluate various alternatives to traditional insurance policies and then we help them implement the alternatives.
- We often intervene for our clients who receive letters from their insurers declining to defend or cover a claim or threatening not to defend or cover a claim.
- We represent numerous mass tort settlement trusts, and have assisted those trusts in developing and overseeing asbestos claim procedures, including the defense and payment of claims.
- We have both negotiated and litigated for our asbestos trust clients to establish their rights to both a defense and indemnification for asbestos personal injury and property damage claims. This work has included litigating to establish coverage under missing policies, pursuing claims against insolvent insurers and pursuing claims against London insurers, both solvent and insolvent. The value of coverage established through these efforts is in excess of \$100,000,000.
- We have negotiated multimillion dollar plus settlements and judgments on executive risk excess liability policies in which insurers disputed coverage.
- We have negotiated and litigated several million dollar settlements with general liability and excess liability insurers (domestic and non-domestic) on environmental claims that the insurers initially refused to cover.
- We developed coverage arguments that resulted in our clients obtaining several million dollar recoveries from the general liability insurers on business interruption claims and property damage claims related to natural disasters such as hurricanes and earthquakes.
- We negotiated several settlements of over \$1 million on Employment Practices Liability (EPL) claims that insurers initially denied.
- We have successfully negotiated or litigated to establish coverage for our clients as additional insureds under the policies of their business partners with whom they had contracts.
- We have assisted our clients in presenting, negotiating and litigating claims under their crime coverages for losses sustained as a result of embezzlements or thefts by both their employees and third parties. These engagements have resulted in the recovery of million dollar plus insurance payments to reimburse our clients for their losses.

NEWS

- Ten Lawyers from KMK Named *Cincy Leading Lawyers* by *Cincy Magazine*

Insurance Coverage & Litigation (Continued)

PUBLICATIONS

- Client Alert: KMK Forms Evolving Media & Technology Team to Help Clients Navigate Social Media's Legal and Business Challenges, May 4, 2010