

OVERVIEW

INSURANCE RECOVERY



Murtha Cullina is one of the few major law firms in New England to take on the insurance industry. We began prosecuting claims for insurance coverage for large environmental liabilities in the mid-1980s and went on to create state Supreme Court precedents on choice of law, whether a potentially responsible party letter is a “suit” and the scope of the pollution exclusion. Since then, we have continued to litigate the important and hotly disputed issues in coverage law for a wide range of clients.

The coverage claims handled by our attorneys have concerned a variety of types of insurance policies, including: primary, umbrella and excess policies for comprehensive general liability; property; directors and officers liability; errors and omissions; malpractice; employment practices liability; environmental impairment liability; life; health and disability; and construction and fidelity bonds.

We aggressively litigate insurance disputes to enforce coverage rights for policyholders and have recovered millions of dollars in insurance coverage and defense costs. We have been successful at every stage of a dispute, from the pre-suit negotiation of settlement, through the verdict at trial, to the judgment on appeal.

We push back early: when our clients receive denial or reservation of rights letters, we work to secure a defense for our clients so that they are not forced to pay legal fees and costs. For example, when a client was served with a complaint that had multiple counts, most of which did not fit within the policy language, the insurance company initially declined to defend, but we persuaded it that some of the claims did fall within the policy and that a defense to the whole suit was required.

OUR COURTROOM SUCCESSES

At trial, we have had numerous successes on behalf of policyholders:

- We won full indemnity from an excess insurer for settlements of sex abuse claims at the conclusion of a bench trial. *Hartford Roman Catholic Diocesan Corp. v. Interstate Fire & Cas. Co.*, 2016 U.S. Dist. Lexis 99369 (D. Conn. 2016).
- After two phases of trial in a case concerning the coverage of asbestos-related personal injury claims brought by our client against dozens of primary, excess and umbrella insurers, we prevailed on several significant allocation issues, including defeating the insurers’ attempt to allocate indemnity to the post-1986 period, when no insurance coverage was available. The trial court also rejected the application of several exclusions such as the pollution exclusion and the occupational disease exclusion. This hotly contested case is on appeal before the Connecticut Appellate Court. *R.T. Vanderbilt Co. v. Hartford Accident & Indem. Co.*, 2014 Conn. Super. LEXIS 699 (March 28, 2014).

SERVICES

Public Finance

Contract Negotiation

Construction

Labor and Employment

Student / Parent Rights

Litigation & Government Relations

- We won a jury verdict against an excess insurer to recover post-judgment interest on the underlying products liability action. The case settled on favorable terms before post-verdict motions, including “offer of judgment” interest, were determined. Stanley Works v. CIGNA, (Conn. Super. 2005).
- We won a jury verdict against an insurance broker who failed to procure group health insurance for almost 2,000 employees. Viejas Band of Kumeyaay Indians v. Lorinsky, (Conn. Super. 2007), aff’d, 116 Conn. App. 144 (2009).
- We served as co-counsel to a chemical company that recovered insurance proceeds for environmental liabilities for 23 sites nationwide. During our representation, we went to trial twice and we won two unanimous decisions from the Connecticut Supreme Court that changed how the applicable law is chosen to govern insurance disputes. Reichhold Chemicals, Inc. v. Hartford Acc. & Indem. Co., 243 Conn. 401 (1997) and 252 Conn. 774 (2000).

Our pre-trial victories also have helped to establish law favorable to policyholders:

- We won summary judgment for a law firm client when the court agreed that a former partner’s knowledge should not be imputed to the firm when the firm filled out its insurance application, and the firm received defense and indemnification. Maher & Williams v. ACE Am. Ins. Co., 2010 U.S. Dist. LEXIS 91934 (D. Conn. 2010).
- We defeated a motion for summary judgment brought by an insurance carrier that argued that claims for breach of warranty and breach of contract for turnkey accounting system software were not covered under an errors and omissions policy. The case settled before trial on terms favorable to our client. AMS Services, Inc. v. Royal Surplus Lines Insurance Company (Conn. Super. 2005).
- We often have successfully moved to transfer coverage cases to allow their presentation in a forum of the policyholder’s choosing. An example is: Travelers Indemnity Co. v. Longview Fibre Company, 2007 U.S. Dist. LEXIS 45972 (D. Conn. 2007).
- We also have moved to stay coverage litigation to require the insurer to defend the underlying claim while the facts that will impact the determination of coverage are established in that underlying claim. An example is: Western World Ins. Co. v. The Glastonbury ABC Company, Inc. (D. Conn. 2012).
- We secured summary judgment requiring defense coverage under a title policy for a complicated Native American land claim. Chicago Title Ins. Co. v. The Kent School, 361 F. Supp. 2d 4 (D. Conn. 2005).
- We defeated a summary judgment motion brought by an insurance carrier that claimed its policy was not triggered for millions of dollars in potential liability for alleged mold damage to a hotel in Las Vegas. The client ultimately received full defense and indemnification. Travelers Prop. Cas. Co. of Am. v. Laticrete Int’l, Inc., 2006 Conn. Super. LEXIS 2268 (Jul. 27, 2006).

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With more than 100 attorneys in six offices throughout Connecticut, Massachusetts and New York, Murtha Cullina LLP offers a full range of legal services to meet the local, regional and national needs of our clients. Our practice encompasses litigation, regulatory and transactional representation of businesses, governmental units, non-profit organizations and individuals.

