

# Professional Liability Insurance Coverage

For over five decades, domestic and international insurers have turned to Cozen O'Connor's team of highly regarded professional liability coverage attorneys to help with the full gamut of professional liability matters. Our attorneys practice at the cutting edge of this dynamic and high-stakes insurance field, in which potential exposures can be catastrophic and insurance products are constantly changing in response to judicial decisions and market conditions.

We have a deep bench of lawyers who are particularly well known for their work representing insurers with regard to litigation involving the following lines of business: directors and officers, errors and omissions, employment practices liability, and fiduciary liability policies for public and private companies as well as not-for-profit organizations. We have represented insurers in major coverage disputes involving securities fraud, mergers and acquisitions, bankruptcy, ERISA claims, and cybersecurity breaches. We often represent clients in matters involving novel issues, and court decisions rendered in our cases have helped develop the law on professional liability coverage in many jurisdictions, including Delaware.

In addition to relying on us to try cases, our clients frequently turn to our team for assistance with in all aspects of policy drafting and claims handling to minimize the chances of a future dispute. Our attorneys routinely handle coverage analyses, mediations, and settlement negotiations. While our goal is to resolve disputes quickly and amicably, we have significant trial experience and are absolutely prepared to take large coverage cases to verdict when necessary. Our strong reputation for successfully representing our clients in the courtroom is a significant advantage in negotiation and alternative dispute resolution, helping us secure highly favorable outcomes.

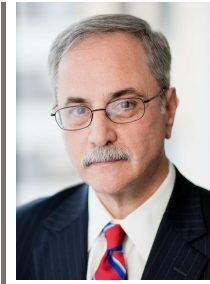
Cozen O'Connor is also distinguished by its geographic scope. With offices in over 32 cities across North America, we have the capability to respond wherever and whenever coverage issues arise and to provide representation by counsel with local experience, knowledge, and relationships. At the same time, clients benefit from the firm's capabilities as a national, full-service business law firm with a wide range of experience, including in bankruptcy, technology and privacy, and securities law.

Our commitment to the insurance industry and to helping our clients stay abreast of legal developments impacting their business includes the creation and delivery of many sophisticated and impactful training and education programs every year. We host a yearly in-person professional liability group program in New York City as well as monthly webinars, each of which is attended by 1,000 or more insurance industry professionals. We are also frequently invited by major insurers to present in-house on new trends in the law, emerging exposures, and best practices for policy drafting. Moreover, we routinely publish widely read client alerts and articles on the latest issues impacting professional liability coverage, and team members have been profiled in prestigious publications like *Business Insurance* and *Litigation Management Magazine*.

In addition to the team's training and educational initiatives, our attorneys are actively involved and hold leadership roles in many industry organizations, including the highly selective Federation of Defense & Corporate Counsel (FDCC), the American College of Coverage Counsel (ACCC), the Claims and Litigation Management Alliance (CLM), and the American Bar Association's Tort Trial & Insurance Practice Section (TIPS).

Our unparalleled experience with all facets of professional liability coverage, coupled with our geographic reach, enables Cozen O'Connor to offer clients exceptional service in every jurisdiction in the country at sustainable and reasonable rates.

## Experience



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### Related Practice Areas

- Bad Faith
- Casualty & Specialty Lines Coverage
- Insurance Corporate & Regulatory
- Insurance Coverage
- Property Insurance
- Strategic Risk & Complex Litigation

### Industry Sectors

- Insurance

Successfully moved to dismiss a lawsuit filed by an insured-law firm seeking coverage for its defense of a trade secrets misappropriation counterclaim in an underlying lawsuit. In granting the motion to dismiss, the court accepted our argument that coverage was barred by a Prior Notice Exclusion given that the claim at issue involved a wrongful act that was the subject of notice under a separate policy under which the insured had received coverage.

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Defeated an insured's motion for preliminary injunction compelling our client to defend him and pay defense expenses in certain adversary proceedings, pursuant to D&O policies held by a company of which the plaintiff was formerly a director and officer. This result was affirmed by the U.S. Court of Appeals for the Second Circuit.

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Won summary judgment for the insurer in a case in which it sought a declaratory judgment that it had no duty to defend or indemnify the insured under a lawyers liability policy in connection with a state court counterclaim and a demand for arbitration brought by the insured's former business partner.

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Secured dismissal of a lawsuit filed by an insured against its directors' and officers' liability insurers, seeking coverage for defense costs and statutory interest payments flowing from a stockholder appraisal action. In successfully moving to dismiss, we overcame the insured's argument that the dispute was controlled by Montana law rather than Delaware law. This result was affirmed by the Supreme Court of Delaware.

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Won summary judgment on behalf of a hospital's retention in a case in which a neurologist sought defense and indemnity coverage for a \$2.8 million verdict in an underlying suit. The predicate suit was brought by a former patient who alleged that the insured stalked her after their romantic involvement ended, causing her to suffer emotional distress. This result was affirmed by the U.S. Court of Appeals for the Third Circuit.

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Secured summary judgment in a professional liability coverage dispute in which the court ruled that our client had no duty to defend or indemnify a man who pretended to be a licensed mental health counselor and was sued when one of his clients died by suicide. This win was affirmed by the U.S. Court of Appeals for the Eleventh Circuit, and the U.S. Supreme Court denied the plaintiff's petition for certiorari.

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Obtained summary judgment in favor of our insurance company client in an action seeking a declaration that the company had no duty to defend or indemnify a law firm and two former lawyers at the firm under a professional liability policy in connection with their representation of five students who brought claims against school districts under the Individuals with Disabilities Education Act (IDEA). In granting the summary judgment motion, the court held that the client had properly denied any duty to defend or indemnify on the basis that the relief sought by the school districts was a sanction and therefore outside of the policy definition of "damages."

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Settled coverage action commenced by U.S. Bankruptcy Court Trustee against a professional liability insurer for a nominal sum after securing win on motion to withdraw the reference from bankruptcy court.

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