

Casualty & Specialty Lines Coverage

For more than five decades, Cozen O'Connor has provided liability coverage and claims counsel to major domestic and international foreign property insurers. Our team of renowned third-party practitioners works closely with clients to efficiently resolve complex claims and advance industry goals.

With offices in 32 cities, the firm represents liability insurers across the United States and is capable of providing prompt and tailored state-by-state coverage counsel. Cozen O'Connor attorneys have direct experience with virtually every type of casualty or specialty insurance product, including:

- Advertising Injury
- Aviation
- Climate Change
- Concussion Injuries
- Construction Defect
- Cyber Liability
- Environmental Exposures
- Excess & Surplus Lines
- Food Contamination/Recall
- Health Care
- Kidnap, Ransom & Extortion
- Life Sciences
- Municipal Liability Insurance
- Ocean Marine/Inland Marine
- Political Violence, Political Risk and Credit Insurance
- Product Liability/Recall
- Sexual Abuse
- Telephone Consumer Protection Act
- Toxic and Other Mass Torts

Cozen O'Connor is frequently charged with developing and executing strategies for management of excess-of-limits exposures where liability is significant but coverage is disputed. To this undertaking, we bring cutting-edge knowledge of good faith claims handling and consent judgment practices. Our team has successfully tried complex coverage, allocation and bad faith/excess-of-limits cases to verdict in numerous jurisdictions.

Having worked at the forefront of liability coverage litigation for decades, our attorneys are vigilant about evaluating and responding to emerging risks. We regularly provide major insurers training and education on new trends in the law and assist with policy drafting and claim preparedness. We have substantial experience as National Coordinating Counsel for class actions and multi-district litigation.

Cozen O'Connor is also distinguished by our working knowledge of insurer operations and the insurance marketplace, which allows us to partner with clients to provide practical, sophisticated and effective legal advice at truly sustainable rates.

Experience

Secured dismissal, on a motion for reconsideration, of a group of insurers from a wrongful death lawsuit seeking more than \$15 million. The plaintiff joined the group to the lawsuit under the Arkansas direct action statute, and the court ultimately held that the entities at issue could not be liable because the plaintiff did not sufficiently allege a breach of duty under the recreational use statute in Arkansas, and the plaintiff was not permitted to bring a direct action against them under the direct action statute.

Obtained an appellate victory for the insurer in a coverage dispute stemming from a tragic and highly publicized accident at a sponsored amateur drag race, after which the injured families filed a lawsuit against the event's sponsor. The insurer had issued a 24-hour CGL policy to cover the event, but it excluded "bodily injuries" including death arising from a "motorized vehicle" accident. Reversing an unfavorable ruling by the district court on the parties' cross-motions for summary judgment, the U.S. Court of Appeals for the Fifth Circuit cited many of the arguments set forth in our brief and during oral



Anupama Joglekar
Co-Chair, Casualty & Specialty Lines Coverage

ajoglekar@cozen.com
Phone (212) 453-3859
Fax (212) 509-9492



Jonathan Toren
Co-Chair, Casualty & Specialty Lines Coverage

jtoren@cozen.com
Phone (206) 224-1260
Fax (206) 621-8783

Related Practice Areas

- Bad Faith
- Insurance Coverage
- Professional Liability Insurance Coverage
- Property Insurance
- Strategic Risk & Complex Litigation

Industry Sectors

- Insurance

argument, and remanded to the trial court with instructions to grant the motion for summary judgment and hold that the insurer has no duty to defend or indemnify.

Secured dismissal of the insurer from a lawsuit seeking coverage for a \$7 million default judgment entered against its insured, a Georgia municipality, in a wrongful death suit. We successfully argued that the insurer was not required to satisfy the default judgment because the city breached a policy condition which required it to defend any claim up to the retained limit. In granting the motion, the court held that, because the insured breached the policy condition, there was no coverage under the policy.

Secured a ruling by the Florida Supreme Court that under personal injury protection coverage ("PIP") for reasonable medical expenses arising from an auto accident, when a provider bills less than the applicable statutory fee schedule payment limitation for a particular service, our insurance company client was not required to pay the provider's charges at the higher statutory fee schedule payment amount, because the state's statutory PIP fee schedule payment limitation sets a "ceiling", not a "floor", so that the policy's language that allows payment of bill amounts less than the statutory fee schedule limitation at the billed rate was valid.

Won summary judgment for the insurer as plaintiff in a declaratory judgment action, with the court holding that the policies at issue -- with more than \$40 million in limits -- did not provide coverage for an underlying class action brought against the insured, a manufacturer and distributor of ozone-based cleaning devices used for CPAP machines. The underlying consumer plaintiffs alleged that the insured concealed information on the risk of ozone exposure and that they otherwise would not have purchased their machines, but strategically omitted claims for damages relating to bodily injury and property damage. In granting summary judgment, the court agreed with our argument that in the absence of such claims for relief, the insuring agreement was not satisfied regardless of ancillary factual allegations of bodily injury.

Secured dismissal of a declaratory judgment action filed by an insured motel seeking coverage for underlying lawsuits by sex trafficking victims, who alleged that the motel ignored open and obvious signs of sex trafficking. In granting the motion to dismiss, the court accepted our argument that sex trafficking is clearly against Pennsylvania public policy and therefore is not insurable.

Secured dismissal of a declaratory judgment action arising from an underlying employment/sexual discrimination lawsuit involving an attorney. The underlying plaintiff alleged that the insured's firm discriminated against her on the basis of sex by paying her less than male attorneys, failing to promote her to partner, and terminating her employment while retaining male attorneys with far lower performance. The underlying plaintiff further alleged that the insureds took a number of retaliatory actions against her after she filed the discrimination suit. In granting the insurer's motion to dismiss, the court agreed that the business pursuits exclusion (among other exclusions) barred coverage entirely under both a homeowners and an excess liability policy, given the retaliatory nature of the allegations. This result was affirmed by the U.S. Court of Appeals for the Second Circuit.

Won summary judgment for the insurer in a case centered on a \$3.5 million yacht that sustained a total fire loss while docked. The policy had a Captain on File and Special No-Captain Deductible, which imposed a 50 percent deductible whenever the named captain was no longer the captain. A few weeks before the loss, the insured fired the captain of the vessel, but did not inform the insurer, which paid out 50 percent of the limit. The insured then filed suit, alleging the policy was ambiguous and advancing several estoppel theories. The insured's bank attempted to intervene in the lawsuit to argue that it is an insured under the policy, and has an additional "Breach of Warranty" coverage, so even if the insured breached the "captain warranty," the bank should receive full payment. When we defeated the bank's the motion to intervene, the bank filed suit against the insured seeking an

acceleration of the mortgage, and the insured brought in the insurer as a third-party defendant. In granting summary judgment, the court adopted the insurer's motion nearly verbatim; it also dismissed the third-party complaint and imposed sanctions for vexatious litigation.

Won summary judgment for the insurer in a pollution coverage dispute stemming from an accidental explosion and chemical plume at the insured's facility early in its 3-year policy period. Under a special, limited coverage grant for certain mitigation expenses called "strategic response costs," the client preemptively paid the medical expenses of hundreds of individuals treated at local hospitals from exposure to the plume, and also paid to defend and settle a handful of actual claims and lawsuits. When the insured failed to renew coverage, the client denied coverage as to two subsequently filed personal injury lawsuits. The insured argued that the handling of the prior medical expenses amounted to an admission that everyone who was treated for injuries automatically made a "claim" at that time. In granting our motion for summary judgment, the court enforced the policy's unambiguous "claims-made" language and found that the insured had produced no evidence that the plaintiffs in question had made actual "claims" during the policy period.

Secured a complete victory for defendant insurers in a 12-year dispute centering on a marine protection and indemnity policy. The insured vessel sank in 2007, and the client denied coverage on various grounds, including for unseaworthiness. The client also denied the insured's request for indemnification to cover various claims brought against it by cargo interests. The client sought a declaration of non-liability from a London arbitrator at that time. In 2017, after concluding various satellite cases, the insured again brought a claim against the client, which we argued should be struck out due to inordinate and inexcusable delay. The arbitration panel accepted this argument, dismissing the claim and awarding costs to our client. This victory was affirmed on appeal to the Queen's Bench.
