

Insurance Coverage, Insurance Recovery and Reinsurance

The insurance practice at Sills Cummis & Gross is uniquely equipped to support both policyholders and insurers in “bet-the-company,” large and medium-sized insurance coverage litigations and advisory matters.

For over four decades, the lawyers in our insurance practice have pursued a singular objective – achieving the best possible outcomes for our policyholder and insurer clients in their insurance disputes and coverage advisory matters. This commitment defines our practice.

We draft and negotiate insurance on behalf of our clients. When our policyholder clients encounter coverage denials or delays in claim payments, we work diligently to maximize their insurance recoveries. As experienced trial and appellate lawyers, we litigate insurance coverage cases in courts nationwide, shaping and redefining insurance law. Conversely, when our carrier clients face claims that exceed policy terms, we act decisively to enforce the policy terms and ensure that coverage is provided solely as stipulated in the policies.

We are also thought leaders in insurance law, authoring scholarly insurance journal and expert analysis articles, providing regular commentary to leading insurance trade publications and speaking on insurance law to national, regional and local audiences.

Our Broad-Based Insurance Experience

Our practice spans all major commercial insurance lines, areas of insurance subject matter expertise, insurance broker representation and reinsurance including:

- Commercial General Liability (CGL), Umbrella and Excess Liability Insurance
- First-Party Property Insurance, including All-Risk Commercial Property Policies, Business Interruption Coverage and Ordinance or Law Coverage
- Directors & Officers (D&O) Insurance Coverage
- Representations & Warranties and Other Transactional Insurance
- Cyber and Data Breach Insurance Coverage
- Professional Liability, including Errors and Omissions (E&O) Liability Insurance
- Construction Defect Insurance Coverage
- Employment Practices Liability Insurance (EPLI)
- Environmental and Pollution Liability
- Fidelity and Surety
- Political Risk, Kidnap and Ransom Insurance
- Insurer Insolvency and Guaranty Association Litigation
- PFAS (Forever Chemicals)
- Retrospective Premium Disputes
- Insurance Broker/Producer Representation
- Insurer/Broker Disputes
- Policy Auditing, Structuring and Drafting
- Life Insurance
- Reinsurance

The Sills Cummis & Gross Advantage – A 360-Degree Perspective on Your Insurance Dispute

Clients of our insurance practice benefit from our Firm's comprehensive 360-degree perspective on insurance disputes. Our senior leadership boasts an advantage that few firms at our level can match – having represented both policyholders and insurers as lead counsel in a number of the largest insurance coverage disputes in the nation. This comprehensive view allows us to resolve our clients' insurance disputes more swiftly, efficiently and favorably.

Our unique 360-degree perspective provides a deep understanding of the business of insurance and fosters excellent professional relationships with both the policyholder and insurer bar, as well as with numerous insurance carriers. We maintain strict confidentiality for our settled insurance matters, affording us opportunities for early case resolutions that many of our competitors simply lack.

When coverage litigation is necessary, our unique 360-degree perspective streamlines the process, enhances our advocacy, and promotes civility with opposing counsel, ultimately reducing our clients' litigation costs and expediting case resolutions.

A National Practice Across All Major Commercial Insurance Lines, Subject Matter Areas, Broker Representation and Reinsurance

Our lawyers enjoy a dynamic, national insurance practice, having litigated and handled insurance disputes in virtually every state and region across the country. Simply put, we go wherever your insurance dispute is located and litigate it in the most favorable forum available.

There is no area of insurance law beyond our capabilities. Our comprehensive insurance practice encompasses all major commercial insurance lines, areas of insurance subject matter expertise, insurance broker representation and reinsurance, including the following.

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Commercial General Liability (CGL), Umbrella and Excess Liability Insurance

When a company is sued by a third-party for bodily injury, property damage or other torts, these policies may have a duty to defend and to indemnify for judgments or settlements.

Due to their typically low premiums relative to the substantial coverage they offer, their customary provision of defense in addition to their limits of liability and their potential to be triggered by events that occurred long in the past, coverage disputes and litigation involving these policies are common.

Our insurance attorneys are particularly seasoned in handling disputes involving these critical policies and can provide significant value to both policyholders and insurers.

First-Party Property Insurance, Including All-Risk Commercial Property Policies, Business Interruption Coverage and Ordinance or Law Coverage

When natural or human-made disasters such as fires, floods, hurricanes, landslides and earthquakes strike, these policies may provide coverage for both loss of property and business income. The most significant disputes over these policies often turn on the quality of the policyholder's claim submission to the carrier.

Our insurance attorneys excel in collaborating with forensic accountants and other claim presentation experts to prepare well-supported, comprehensive claim submissions and proofs of loss for our policyholder clients, or to critically analyze policyholder submissions on behalf of our insurer clients.

Our attorneys possess substantial experience litigating some of the largest property insurance disputes in the country. Notably, one of our group's leaders spearheaded one of the largest COVID-19 business interruption insurance recovery efforts in the nation and played a pivotal role in coordinating the national insurance recovery strategy for policyholders in those cases.

Directors & Officers (D&O) Insurance Coverage

When a company faces lawsuits against itself, or its directors and officers, these policies can provide essential defense and indemnity coverage. D&O insurance claims are often among the most complex in the industry and our experienced insurance attorneys guide our policyholder clients through the claims process, zealously advocating for their interests in court if litigation becomes necessary.

Most D&O disputes, however, are settled and we tirelessly work with both our policyholder clients and their insurers to achieve amicable resolutions when it serves our clients' best interests. However, if D&O coverage litigation is unavoidable, our Firm leverages its extensive team of seasoned insurance coverage and commercial litigators and trial lawyers to maximize our clients' prospects for success. We apply this same expertise to assist our insurer clients in addressing policyholder D&O claims, striving to achieve resolutions that align with the policies' coverage.

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Representations & Warranties and Other Transactional Insurance

One of the burgeoning areas of insurance coverage and disputes involves representations and warranties (known as reps and warranties or R&W) insurance, as well as other types of insurance that provide coverage for mergers and acquisitions and other business combinations and transactions.

Our attorneys assist our policyholder clients in obtaining the most favorable policy terms during the underwriting and policy negotiation process, and in securing coverage under R&W policies when disputes arise and are litigated or arbitrated. Additionally, we offer our insurer clients experienced advice and counsel for adjusting and litigating claims under these policies.

Cyber and Data Breach Insurance Coverage

Cyberattacks and cybersecurity incidents, such as data theft, ransomware attacks, denial of service attacks, and hostile foreign government hacking, present escalating threats to businesses, including business interruption and reputational harm. This surge of cybercriminal activity has brought cyber and data breach insurance coverage to the forefront of contemporary insurance disputes. In response, insurers have tightened coverage terms and are increasingly challenging cyber claims.

Our seasoned cyber and data breach insurance attorneys assist policyholder clients with evaluating the adequacy of their current coverage, securing more favorable policy terms, preparing claims and, if necessary, litigating and arbitrating claims under these policies.

If your company experiences a cybersecurity incident or data breach, our attorneys are prepared to help you secure coverage under your policies and address your cybersecurity issues. Likewise, our attorneys assist insurance carrier clients with adjusting and managing claims under cyber and data breach policies, ensuring that coverage is provided strictly according to policy terms.

Professional Liability, Including Errors and Omissions (E&O) Liability Insurance

Errors and omissions (E&O) policies, also known as professional liability policies, provide coverage for various forms of professional malpractice (such as for physicians, hospitals, nursing homes, architects, lawyers, dentists, etc.) and other “wrongful acts” in a non-professional setting (such as the broker-dealer setting). These policies typically cover defense against lawsuits as well as indemnity, but the defense expenses usually erode the limits of the E&O policy.

Many businesses carry E&O insurance and our attorneys are well-versed in representing both policyholders and insurers in claims and litigation under these policies. One of our insurance practice group’s co-chairs served as lead counsel in one of the largest E&O coverage litigations in U.S. history. Whether you are a policyholder or an insurer facing an E&O claim, we are prepared to advocate vigorously for your interests.

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Construction Defect Insurance Coverage

Insurance coverage for construction defects is a hotly contested area, with insurers and policyholders often at odds over whether policies provide coverage. Due to significant variations in state laws regarding construction defect coverage, parties frequently “race to the courthouse” to secure the most favorable forum. These claims can arise under many different types of policies including Commercial General Liability (CGL), builders’ risk, Owner Controlled Insurance Program (OCIP), Contractor Controlled Insurance Program (CCIP), delay in start-up (DSU), performance bonds and others.

Our attorneys have extensive experience in this area, with one of our group’s co-chairs having served as lead counsel to a major insurer in one of the largest construction defect cases in U.S. history, involving over \$1 billion in controversy, as well as lead counsel in numerous other construction defect matters.

Whether you are a policyholder advancing a construction defect claim or an insurer confronting one, our insurance practice group is ideally positioned to advocate for your interests throughout the claims and litigation process.

Employment Practices Liability Insurance (EPLI)

Employment practices liability insurance (EPLI) policies provide coverage to policyholders offering defense and indemnity for settlements and judgments arising from certain common employee claims, such as discrimination and harassment. Coverage varies, often with limitations on choices of counsel and other restrictions. Should your company be considering such coverage, we can guide you through the pros and cons. Should your company have such coverage, our Firm’s experienced insurance attorneys may assist policyholders to maximize their EPLI coverage, assist with the claims process, and litigate or arbitrate disputed claims with the carrier arising from EPLI policies. Our attorneys have successfully persuaded some EPLI carriers to reverse coverage denials. Our comprehensive 360-degree perspective on insurance disputes enables us to collaborate effectively with both policyholder and insurer clients.

Environmental and Pollution Liability

In response to policyholder recoveries for environmental liabilities under CGL policies, insurers developed policies specifically tailored for environmental and pollution liability, typically written on a “claims-made” basis. These policies are often referred to as Environmental Impairment Liability (EIL) policies or Pollution Liability policies, with coverage typically triggered by a “pollution condition” or “pollution incident.”

Our insurance practice group has extensive experience with EIL and pollution liability policies. Our attorneys have represented policyholders, including major U.S. airlines and airports, with substantial claims under these policies, as well as insurers. Our attorneys have achieved excellent results for their clients under these policies and are well-equipped to deliver the same success for new clients.

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Fidelity and Surety Insurance Coverage

Commercial crime insurance, fidelity bonds and similar insurance products provide coverage to businesses victimized by dishonesty and criminal conduct including fraud, forgery, counterfeiting, theft by non-employees and employee theft and embezzlement.

If your company was impacted by such criminal behavior or dishonesty, our experienced insurance practice attorneys are prepared to assist you in pursuing your claim with your insurers, if necessary, arbitrating or litigating the matter. Likewise, we are ready to support insurers with policyholder claims under fidelity and surety insurance coverage.

Political Risk, Kidnap and Ransom Insurance

Given the inherent dangers in the world, companies with overseas operations often purchase insurance policies to safeguard against political risk, such as the nationalization or government confiscation of assets, as well as the kidnapping and ransom of their employees and their families.

Our experienced insurance attorneys are prepared to assist both policyholders and insurers with claims under these policies.

Insurer Insolvency and Guaranty Association Litigation

In the insurance industry, insolvency is an unavoidable reality. Our attorneys possess extensive expertise in insurer insolvency, demonstrated by a prior 20-year representation of the New Jersey Department of Insurance in liquidating several major insolvent insurers such as Mutual Benefit Life Insurance Company and Integrity Insurance Company. This experience has provided us with comprehensive knowledge of all facets of insurance company operations including production, underwriting, claims and reinsurance.

Because of that experience, we have been retained by insurance companies and insurance producers in disputes involving premiums, contingent commissions, incurred but not reported (IBNR) reserving and violations of underwriting guidelines. Moreover, our attorneys have successfully aided numerous policyholders in obtaining recoveries from state insurance guaranty associations and liquidators for insolvent insurers' shares of losses.

Given our extensive experience, we are well-equipped to assist our policyholder clients in securing recoveries from state insurance guaranty associations and liquidators for insolvent insurers' portion of losses. We also provide expert advice and counsel to our insurer clients on issues arising from insurer insolvency. If you are facing an insurance insolvency issue, we are here to help.

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PFAS (Forever Chemicals)

The surge in claims for bodily injury and environmental damage resulting from the use of PFAS (commonly known as “forever chemicals”) represents one of the most significant emerging waves of environmental and toxic tort claims since asbestos and CERCLA, with estimated future liabilities in the hundreds of billions of dollars. Plaintiffs are not only suing manufacturers of PFAS but also a wide range of businesses that have introduced PFAS or PFAS-containing products into the stream of commerce, including retailers, component part manufacturers, clothing manufacturers and even fast food restaurants chains and juice manufacturers.

These claims will trigger CGL, umbrella, excess liability and numerous other policies, raising issues related to trigger of coverage, allocation of liability and pollution exclusion that were previously litigated in asbestos and environmental coverage cases. Additionally, locating missing “occurrence-based” CGL policies will be crucial to policyholders seeking recovery for these expanding claims.

Our insurance lawyers have decades of experience in the specific areas of insurance law implicated by PFAS claims and are recognized national thought leaders in this rapidly evolving field. If you are a policyholder or insurer facing PFAS claims, we are well-equipped to help you.

Retrospective Premium Disputes

Contrary to popular belief, many larger insurance policies purchased by businesses, particularly at the primary or first-dollar layer, do not entail a complete transfer of risk from the policyholder to the insurer. Due to the high premiums associated with traditional risk-transfer insurance, many of these policies involve a risk-sharing arrangement between the policyholder and insurer, or no transfer of risk at all, known as “fronting” policies. In such cases, the policyholder may retain responsibility for defense costs, indemnity or both.

To the outside world, these arrangements may appear to be traditional insurance policies with the insurer covering the claims. However, with fronting insurance products, the insurer subsequently “bills back” the policyholder’s share of the risk through a “retrospective premium.”

Not all retrospective premium arrangements are seamless, and disputes between policyholders and insurers can arise, especially when the retrospective premium “bill backs” are substantial or when the policyholder claims to have misunderstood the risk-sharing or fronting nature of the insurance purchased.

Our insurance practice group includes attorneys with extensive experience in coverage disputes, litigation and arbitration involving policies with retrospective premiums. We have successfully represented both policyholders and insurers in these disputes. If you are a policyholder or insurer facing a retrospective premium dispute, we are equipped to help you navigate and resolve it quickly.

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Insurance Broker/Producer Representation

Insurance brokers and producers encounter a myriad of legal issues in their business operations and the lawyers in our insurance practice group have been at the forefront of addressing these challenges. We have provided counsel to insurance producers on licensing issues arising under the Uniform Insurance Producer's Act and have represented insurance producers in broker errors and omissions cases.

If you are an insurance producer facing a regulatory issue or a malpractice claim, our team has the necessary experience and skill to help you resolve it effectively.

Insurer/Broker Disputes

While insurers and brokers depend on each other for production and market access, their relationships can occasionally deteriorate. When such breakdowns occur, our insurance practice group's attorneys have represented both insurers and brokers in disputes against the other involving premiums, contingent commissions, incurred but not reported (IBNR) reserving and violations of underwriting guidelines. Our insurance attorneys have successfully guided clients through these disputes, whether through negotiation, arbitration or litigation, and we are well-positioned to assist both insurers and brokers in need of counsel.

Policy Auditing, Structuring and Drafting

The best way to resolve an insurance coverage dispute is to prevent it from arising in the first place. Often, the most effective prevention involves experienced policyholder counsel who can:

1. Audit a policyholder client's existing insurance program;
2. Identify gaps in coverage;
3. Suggest endorsements to add to existing policies; and
4. Assist with the negotiation and drafting of renewal or replacement policies at the time of policy renewal to close coverage gaps.

Our insurance attorneys possess considerable experience in insurance policy audits, policy drafting and policy negotiation. We are ready to assist our policyholder clients in performing these crucial preventative, coverage-enhancing tasks.

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Life Insurance

Life insurance claims under policies issued to ultra-high net worth policyholders are occasionally contested by insurers. Our attorneys have experience in pursuing these claims and addressing the unique issues that arise when wealthy individuals pass away and their beneficiaries present a life insurance claim.

If you are the beneficiary of a substantial life insurance policy from an ultra-high net worth individual and require representation to pursue and, if necessary, litigate the claim to secure the policy benefits, we are ideally positioned to assist you. We can provide the same level of expertise to life insurers confronted with such claims.

Reinsurance

We have represented cedents and reinsurers in reinsurance disputes involving claims related to asbestos, medical products, pharmaceuticals and surety bonds. Additionally, we have handled disputes between cedents and reinsurers concerning retrospective premiums and contingent commissions.

Insurance Coverage, Insurance Recovery and Reinsurance Representative Matters

Our attorneys have represented both policyholders and insurers in many high-profile insurance coverage matters, which include:

- > **Successful Defense of Insurer in \$100 Million Coverage Trial:** Served as lead trial counsel in defending a \$100 million insurance coverage action in California against a global chain of nursing homes. Representing a major insurer, conducted a two-month trial involving over 20 witnesses, 60 depositions and an exchange of over 10 million pages of documents. Secured a complete defense verdict and recovered hundreds of thousands of dollars in costs from the policyholder.
- > **COVID-19 Business Interruption Insurance Coverage Chief National Policyholder Strategist and Coordinator:** Acted as chief policyholder strategist and coordinator for over twenty COVID-19 business interruption coverage matters and litigation across 14 states. Led and managed all COVID-19 matters, supervising and advising over 50 lawyers at multiple firm offices and local counsel, seeking over \$10 billion in insurance recoveries. Argued in the U.S. Court of Appeals for the Eighth Circuit, obtaining the first policyholder reversal of a judgment for insurers in the history of COVID-19 insurance recovery litigation in the United States.
- > **COVID-19 Business Interruption Insurance Coverage – Spearheaded Insurer Victory in New Jersey Appellate Division:** Served as counsel for various insurers in the successful appellate representation against a COVID-19 business interruption claim by a large chain of convenience stores.
- > **Special Counsel for Integrity Insurance Company Liquidation:** Served for 19 years, as Special Counsel to the New Jersey Department of Banking & Insurance in the liquidation of Integrity Insurance Company. Filed various actions on behalf of the Liquidator against former managing general agents for unremitted premiums, underwriting guideline violations, breach of contract and return of contingent commissions.
- > **Lead Litigator and Trial Counsel for Representation of Major Insurer:** Acted as lead insurance coverage litigator and trial counsel for a team of twenty attorneys across multiple offices, representing a major insurer in property casualty and errors and omissions insurance coverage litigations nationwide. Handled matters ranging from \$20 million to over \$1 billion per case, maintaining an undefeated record for the insurer for over eight years.

Insurance Coverage, Insurance Recovery and Reinsurance Representative Matters

- > **Statewide Coverage and Bad Faith Counsel for The Home Insurance Company:** Served as New Jersey Coverage and Bad Faith Counsel, defending The Home Insurance Company and defended the company in a variety of disputes under first-party property and third-party liability policies.

Environmental, Asbestos and Toxic Tort Claims

- > **Secured Coverage for Major Airlines and Airports:** Successfully represented major U.S. airlines and one of the largest U.S. airports in obtaining coverage from their Commercial General Liability (CGL) carriers and Environmental Impairment Liability (EIL) carriers for hundreds of millions of dollars of environmental claims.
- > **Hundreds of Millions Recovered for Asbestos Producers:** Represented numerous asbestos producer defendants against their CGL, umbrella and excess insurers, recovering hundreds of millions of dollars in insurance proceeds.
- > **Recovered \$20 Million for Chemical Manufacturer:** Secured over \$20 million in coverage for a chemical manufacturer policyholder in a New Jersey environmental insurance coverage action under multiple years of CGL policies. The policyholder was accused of polluting the local water supply with chemicals.
- > **\$55 Million Asbestos Insurance Recovery:** Represented a manufacturing company in the recovery of \$55 million of asbestos bodily injury losses from its excess and umbrella liability insurers.
- > **Pioneering Non-Products Asbestos Claims:** Filed one of the first “non-products” claims in U.S. history on behalf of an asbestos installer defendant policyholder against its CGL, umbrella, and excess insurers, arguing that bodily injury claims against the installer were not subject to the policies’ aggregate limits.
- > **Tens of Millions Recovered for Producers of Protective Clothing and Other Equipment against Asbestos, Silica and Coal Dust Bodily Injury Claims:** Recovered tens of millions of dollars in insurance proceeds for manufacturers of protective clothing and other equipment for bodily injury liability from asbestos, silica and coal dust claims.

Insurance Coverage, Insurance Recovery and Reinsurance Representative Matters

D&O, Fidelity and Surety, Cyber and Data Breach Claims and Other Financial Lines

- > **D&O Claims Representation:** Represented multiple companies and their directors and officers in claims under D&O policies.
- > **Cyber and Data Breach Insurance Counseling:** Provided counsel to policyholders for cyber and data breach claims. Evaluated and reviewed cyber and data breach insurance policies for mergers and acquisitions of clients.
- > **Defense of Financial Guaranty Insurance Claims:** Represented the Liquidator of Integrity Insurance Company in defending actions seeking coverage of \$50 million in financial guaranty claims.
- > **Fidelity Claims Insurance Recovery:** Represented major corporations and banking institutions in prosecuting fidelity claims against carriers for dishonest acts committed by the policyholders' employees.
- > **D&O Policy Recovery:** Represented a company in recovering \$2.5 million under a D&O policy.

Representations & Warranties and Other Transactional Insurance

- > **Representations & Warranties Claims Representation:** Represented and counseled clients with respect to claims under representations & warranties insurance.

Construction Defect and Other Construction-Related Insurance Coverage Claims

- > **Lead Counsel in One Billion Dollar Construction Defect Coverage Case:** Defended an insurer, as lead counsel, in one of the nation's largest construction defect actions, valued at more than \$1 billion, involving multiple owner, contractor and subcontractor claims under an owner-controlled insurance program, leading to a settlement.
- > **Successful Defense of Insurer against \$65 Million Builders' Risk Claim from Power Plant Collapse:** Defended an insurer against a \$65 million delay in startup claim under a builders' risk policy stemming from the partial collapse of a Connecticut power plant under construction. Weakened the policyholder's coverage claim through 20 depositions and expert evidence, culminating in a settlement.

Insurance Coverage, Insurance Recovery and Reinsurance
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- > **Lead Counsel to Insurer in Southern California Construction Defect Coverage**
Actions: Defended an insurer against multiple construction defect coverage actions involving high-rise condominiums in Southern California, resulting in settlements.
- > **Representation of Miami High-Rise Condominium Developer:** Represented a developer of a Miami high-rise condominium in a coverage action against its property insurer over construction defects caused by faulty structural engineering.
- > **Successful Insurance Recovery for Property Owner under Ordinance or Law Coverage:** Represented a commercial property owner who sustained a partial building collapse and was informed by the local construction official that its 40 year-old building had to comply with the current building code from which it was previously grandfathered. Recovered the increased cost of construction pursuant to the ordinance or law coverage of the standard property policy.

Natural Disasters and Business Interruption Claims

- > **Secured Business Interruption Coverage for Fire-Destroyed Paper Mill:** Successfully obtained business interruption coverage for a paper mill that was destroyed by fire.
- > **Coal Mine Fire Claims:** Represented owners of coal mines in coverage litigation against their property and liability insurers seeking recovery for property losses, business interruption and bodily injury losses arising from coal mine fires and explosions.
- > **Landslide-Related Business Interruption Claim:** Represented institution seeking business interruption coverage for losses caused by a landslide in Big Sur, California.
- > **Oil Refinery Explosion Claims:** Pursued insurance recovery litigation for oil refinery owner arising from catastrophic bodily injuries and burns sustained by refinery workers in an explosion.
- > **September 11th Business Interruption Insurance Recovery:** Recovered tens of millions of dollars in business interruption insurance coverage for businesses impacted by the September 11, 2001 terrorist attack on the World Trade Center.

Insurance Coverage, Insurance Recovery and Reinsurance
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- > **Fighting for Policyholders in Natural Disaster Claims:** Represented various policyholders in pursuing business interruption and property damage claims arising from natural disasters, including fires, building collapses, floods, hurricanes and other catastrophic events.

Employment Practices Liability Insurance (EPLI) Claims

- > **Secured EPLI Coverage for International Bank Accused of Employment Discrimination:** Represented an international bank accused of employment discrimination in a coverage dispute with its EPLI carrier. Successfully persuaded the insurer to rescind its disclaimer and provide coverage by filing a complaint with the New York State Department of Financial Services for deceptive marketing of its EPLI policies.

Healthcare Claims

- > **Successful Defense of Insurer against \$1.6 Billion Professional Liability Claim:** Served as lead counsel in defending an insurer against a claim exceeding \$1.6 billion under a series of professional liability policies. Pursued rescission of the policies, leading to a settlement. Coordinated defense strategy for the underlying actions, resulting in defense verdicts and dramatically reduced settlement values.
- > **E&O Coverage for Healthcare Fraud Defense in *Qui Tam* Action:** Represented a health care company seeking coverage from its Errors & Omissions (E&O) insurer for defense costs and indemnity incurred in a *qui tam* action alleging healthcare fraud.
- > **E&O Coverage for Prepaid Funeral Provider:** Represented a prepaid funeral provider in seeking E&O coverage for the defense and indemnity with respect to fraud actions filed in several states.

Entertainment Industry Claims

- > **Summary Judgment (and Affirmance) in \$20 Million Duty to Defend Case:** Won summary judgment for an insurer client from the U.S. District Court for the Central District of California against a \$20 million duty to defend claim brought by the world's largest record company arising from alleged tortious interference in record contracts with hip hop artists. Achieved affirmance on appeal to the U.S. Court of Appeals for the Ninth Circuit.

Insurance Coverage, Insurance Recovery and Reinsurance
Representative Matters

Retrospective Premium Disputes

- > **Favorable Result for Insurer in Dispute over Risk-Sharing CGL Policy with Retrospective Premium Endorsement:** Represented an insurer against the world's largest record company in a dispute under a risk-sharing, fronted CGL policy with a retrospective premium endorsement. The record company claimed that the policy was a traditional risk-transfer policy. Extensive depositions and discovery severely undermined the policyholder's case, resulting in a favorable settlement on the courthouse steps.

Insurance Producer and Agency Litigation

- > **Agency Litigation for National D&O Insurance Producer:** Represented a national producer of D&O insurance in agency litigation with Federal Insurance Company, addressing issues of underwriting violations, unremitted premium and contingent commissions.
- > **Litigation by Insurers against General Agents:** Represented various insurers in litigation against their general agents involving allegations of negligent underwriting, violation of underwriting guidelines, and the return of commissions.

Life Insurance

- > **Recovery of Tens of Millions of Dollars for Survivors of Ultra-High Net Worth Policyholder under a Life Insurance Policy:** Prepared and advanced a life insurance claim concerning the death of an ultra-high net worth policyholder under highly confidential circumstances, protecting the family's and the decedent's privacy and securing life insurance benefits worth tens of millions of dollars without litigation.

Reinsurance

- > **Reinsurance Recovery for Liquidator of Insolvent Insurer:** Represented the Liquidator of Integrity Insurance Company in recovering \$65 million in reinsurance for asbestos, environmental and toxic tort liabilities.
- > **Recovery of Reinsurance for a Surety Company:** Represented a national surety company in recovering \$3.5 million in reinsurance for construction losses.