



Life, Health, Disability and ERISA

As benefit protections erode with each wave of legislation, life, health and disability decisions are being scrutinized at every level. Whether the inquiry is from an insurance department, the DOL, a judge or claimant, insurers and plans are on the hot seat. Today, the challenges of life, health and disability fiduciaries are more prominent than ever. It seems as though the landscape in which insurers and plans are required to draft new policy and plan language, interpret existing policy and plan language, and adjudicate claims—both ERISA and non-ERISA—is ever-changing.

The Life, Health, Disability and ERISA Group represents insurers, employers, brokers, re-insurers, third-party administrators, self-insureds, ERISA plans and related entities in a wide array of matters that include the routine as well as the unexpected. Our lawyers have a wealth of solid experience and broad knowledge from years of handling complex and unique issues under both individual and group plans.

Whether under the Employee Retirement Income Security Act of 1974 (ERISA) or other federal, state, insurance or regulatory laws, the LHD&E Group brings an unbridled commitment to quick, efficient and aggressive resolution of life, health and disability matters. With extensive trial experience in this area, we are able to deliver results in the courtroom as well as in alternative dispute resolutions. We understand that, while results are paramount, we must also provide our clients with timely, proactive and cost-efficient advice.

LIFE, HEALTH AND DISABILITY INDIVIDUAL POLICIES

In the ever-changing landscape of individual first-party insurance disputes, the LHD&E Group has been a leader in shaping life and disability case law across the nation. From pioneering the first manifest defense in New Jersey to creating the distinction between “totally disabled” v. “residually disabled” in New York, we have guided clients successfully through the bad faith thicket.

We often apply our broad experience to pre-litigation claims, providing our clients with solid advice and insight to protect their rights and resolve issues prior to litigation. Our lawyers have a broad range of experience handling a wide range of matters, including:

Practice Contacts

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Related Practices

Healthcare
Insurance Coverage and Bad Faith
Insurance Fraud

Practice Highlights

- We have a proud history of partnering with our clients in the defense of life, health, disability and ERISA claims.
- We are particularly honored that our clients were influential in our being named a “Go To” Law Firm for Litigation in this practice area, a distinction noted in both *Forbes* and *Corporate Counsel* magazine.
- Our lawyers are regularly asked to speak at industry conferences, seminars and meetings.

- Rescission
- First manifest
- Residual disability v. total disability
- Policy interpretation
- Pre-existing conditions
- Fraudulent claims
- Legal disability
- Bad faith
- Consumer fraud
- Policy lapse issues
- Accident v. sickness
- Appropriate care
- Beneficiary disputes
- Inter-company arbitrations
- Failure to provide proof of loss
- Pre-litigation claims advice

ERISA

Comprehensive experience and attention to detail set our ERISA lawyers apart. We are dedicated to helping our clients through the maze of the ERISA statute, regulations and case law and are well-versed in establishing and maximizing ERISA protections. Whether counseling clients as to fiduciary obligations or on plan administration, arguing ERISA applicability or the ERISA standard of review, defending against overbearing discovery requests or claims alleging fiduciary breach (for statutory penalties or ERISA attorneys' fees), we defend insurers, employers, employee benefit plans, sponsors and fiduciaries in confronting the ever-expanding issues and exaggerated claims they face.

We have solid experience in dealing with a wide array of ERISA issues in a variety of contexts, including group welfare benefit plans—life, accident, health, disability, severance and long-term care, among others—as well as pension and retirement plans. We understand the implementation and enforcement of ERISA regulations and their impact on our clients. Our approach to ERISA blends years of experience with proactive and efficient resolutions. We provide legal advice and handle ERISA matters in the following areas:

- Benefit entitlement
- Plan interpretation and administration
- Plan amendments
- Breach of fiduciary duty
- Conflicts of interest
- Discovery outside the administrative record

- Standard of review
- Exhaustion of administrative remedies
- Claims for restitution of plan benefits
- Statutory penalties
- Attorney's fees
- Preemption
- Removal
- Employee benefit plan design
- Summary plan descriptions
- ERISA exemptions: church and government plans
- Compliance issues

HEALTH

The healthcare industry has been experiencing enormous upheaval for several years. With the passing of the Affordable Care Act the healthcare system had been under extreme pressure to change, with the ripple effect foisting untold duress upon health insurers, plan administrators, employers and providers.

Our group has the experience to help clients navigate through this healthcare minefield. Recent changes in the law, as well as decisions by State and Federal courts, are shifting the way healthcare is being delivered and paid for, which exposes payers to liability, while eroding existing protections. We have extensive experience representing and counseling in various areas of healthcare law, including:

- Establishment of new healthcare networks
- Out-of-network coverage disputes
- Healthcare network contractual disputes
- Provider litigation
- Benefit entitlement
- Compliance Issues under ERISA, PPACA, fraud and abuse laws and pertinent regulations
- Healthcare antitrust claims
- Fraud
- Medicare and Medicaid fraud and abuse
- RICO
- HIPAA analysis and implementation
- Coverage issues
- Counseling third-party administrators
- Bad faith

- Breach of fiduciary duty
- Plan interpretation

Representative Matters

- Represented a New Jersey health care insurer in its defense of a tiered health plan
- Defeated several preliminary injunctions by hospitals to halt the implementation of a tiered health plan
- Defended against claims that a health insurer breached the Hospital Network Agreement
- Defended against claims that a health insurer breached its fiduciary duty, violated the New Jersey consumer fraud act, breached its covenant of good faith and fair dealing, defamed the provider hospitals and interfered with the hospital's economic advantage
- Obtained a published opinion from the New Jersey Appellate Division granting a protective order in a matter wherein several hospitals were seeking intrusive discovery
- Established the principle in New York law that in order to be totally disabled pursuant to an individual disability policy, an insured must be unable to perform all of the important duties of "your occupation"
- Achieved summary judgment on behalf of an insurer in determining the applicable statute of limitations pursuant to a disability contract
- Successfully defended an ERISA plan administrator on claims for ERISA statutory penalties and fiduciary breach for alleged failures to timely provide plan documents
- Summary judgment awarded to insurer on alleged wrongful denial of ERISA group universal life and term life insurance claims involving multiple beneficiary designations

- Established the First Manifest defense in New Jersey in the Supreme Court Case of *Haas v. Paul Revere*
- Litigated hundreds of actions on behalf of insurers with respect to the denial of benefits under individual and group insurance policies
- Instituted declaratory judgments actions concerning the scope of coverage available under disability policies, including claims involving "accident v. sickness" and "appropriate care"
- Successfully obtained a dismissal of claim for plan benefits based on failure to exhaust administrative remedies
- Litigated issues concerning the scope of discovery under ERISA plans

- Successfully represented insurer in obtaining a dismissal of bad faith claims where court held that such claims were not appropriate in a disability action where the dispute was fairly debatable
- Successfully opposed insured's attempt to amend complaint to include bad faith claim. Court agreed claim would be futile as such a cause of action in a first-party coverage action was not recognized by New York Federal Courts
- Obtained dismissal of plaintiff's claims for bad faith conduct, deceptive practices under GBL § 349 and punitive damages
- Represented insurance carriers on rescission actions, including rescissions for fraudulent misrepresentations
- Routinely represent carriers in prosecuting fraud claims on various types of policies, including the pursuit of claims under the New Jersey Insurance Fraud Prevention Act

- While representing insurance carriers, worked with the New York Insurance Department and Attorney General's office concerning fraudulent insurance claims
- Filed numerous declaratory judgment actions concerning scope of coverage under life, health and disability insurance plans
- Litigated hundreds of actions on behalf of insurers, concerning the denial of benefits under both individual and group insurance plans

Recognitions and Awards

Since 2015, White and Williams has been recognized by Chambers USA as a leading law firm in Pennsylvania for achievements and client service in the area of insurance law. The firm is recognized for offering advice to insurers and reinsurers across a range of areas, including coverage, bad faith and excess liability. The firm is also recognized for its adroit handling of complex alternative dispute resolution cases, with clients saying "they have very formidable folk" and "provide great value."

News

13th Annual Coverage College Hosts Over 400 Insurance Professionals
November 1, 2019

White and Williams Announces Addition of Employee Benefits and Healthcare Attorneys to Philadelphia Office
June 10, 2019

Andrew Hamelsky Comments on NJ 'Stranger' Life Policy Decision in Law360
Law360 | June 7, 2019

Chambers USA 2019 Ranks White and Williams as a Leading Law Firm
April 26, 2019

12th Annual Coverage College Features Current Trends and State of the Insurance Claims Industry
October 23, 2018

David Marion Recognized by *Best Lawyers* as "Lawyer of the Year"
August 15, 2018

Chambers USA 2018 Ranks White and Williams as a Leading Law Firm
May 10, 2018

Chambers USA 2017 Ranks White and Williams as a Leading Law Firm
May 26, 2017

Sean Mahoney and Liz Venditta Co-Author Chapter of *The Law of Life Insurance: Key Issues in Each State*
April 26, 2017

White and Williams' Insurance Practice Receives Top Honors
September 22, 2016

Prominent Trial Attorney David Marion Joins White and Williams
September 6, 2016

Chambers USA 2016 Ranks White and Williams as a Leading Law Firm
May 31, 2016

White and Williams Earns "Best Law Firm" Distinction by US News and World Report
November 3, 2015

Chambers USA 2015 Ranks White and Williams as a Leading Law Firm
May 19, 2015

White and Williams Nationally Recognized as a Top-Tier Firm by U.S. News and World Report
November 3, 2014

White and Williams Listed by A.M. Best for over 50 Years
February 12, 2014

White and Williams Earns National Recognition by U.S. News and World Report
November 4, 2013

White and Williams LLP Receives AM Best's "Recommended Insurance Attorneys" Badge Again
February 11, 2013

The Legal Intelligencer Names Wes Payne an "Unsung Hero" for Pro Bono Work
February 22, 2012

White and Williams LLP Receives AM Best's "Recommended Insurance Attorneys" Badge
January 16, 2012

Three Lawyers Elevated to Counsel
January 6, 2012

Publications

NJ Supreme Court Rules STOLI Policies Violate Public Policy and Void at the Outset
Litigation Alert | June 5, 2019

Cross-Plan Offsetting to Recoup Overpayments to "Out-Of-Network" Providers Held Unreasonable
Life, Health, Disability and ERISA Alert | January 16, 2019

Purported Assignment and Power of Attorney Held Invalid in Provider's Suit to Recover Health Benefits
Life, Health, Disability and ERISA Alert | December 13, 2018

Third Circuit Issues Precedential Ruling: “Anti-Assignment” Clauses in ERISA-Governed Health Insurance Plans Are Enforceable

Life, Health, Disability and ERISA Alert | May 23, 2018

The “Hungry Tapeworm” of Healthcare the New Joint Focus of Amazon, Berkshire Hathaway, JP Morgan

Healthcare Alert | January 30, 2018

Healthcare Reform Progress or More Fits and Starts?

Healthcare Alert | October 19, 2017

Fall 2017 Healthcare Update: If at First You Don't Succeed, Try, Try Again

Healthcare Alert | September 21, 2017

Update: "Skinny Bill" Fails in Senate Vote

Healthcare Alert | July 28, 2017

ACA Repeal Advances In Senate

Healthcare Alert | July 27, 2017

DOL's Year-End Mic Drop: Final Rule Amending ERISA Disability Claim Procedure Regulations Released

Employee Relations Law Journal, Vol. 43, No. 1 | Summer 2017

Supreme Court Blesses Church-Affiliated Nonprofits With ERISA Exemption Decision

Life, Health, Disability and ERISA Alert | June 15, 2017

Up To The Task

The Legal Intelligencer | November 2, 2016

Medical Document Reviewer Hired by an Insurer Does Not Owe a Duty to an Insured, Says the Third Circuit Court of Appeals

Healthcare Alert | September 29, 2015

Events

Life, Health, Disability and ERISA: Benefit Claims Litigation and The New DOL Disability Claims Regulations

Client Presentation | February 21, 2019

Deconstructing the Disability Bad Faith Expert

Definitive Disability Conference 2 (Boston, MA) | October 22, 2015

Legal Year in Review - Life, Health and Disability Law Update

New England Claim Association Conference (Westford, MA) | February 5, 2015

Dealing with Social Security Awards and the Latest in Offsets, Overpayments and Liens in Disability Cases

ACI's 16th Annual Conference (New York, NY) | January 24, 2014

Uncovering the Mystery of Brewster's History

University of Pennsylvania, New Bolton Center, BVDC General Meeting (Kennett Sq., PA) | November 18, 2012

Cases & Deals

White and Williams Obtains Complete Defense Verdict for Insurance Client

August 10, 2015