

Anthony L. Miscioscia

Partner

Co-Chair, Insurance Coverage and Bad Faith Group and Bad Faith Extra-Contractual Liability Group

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Anthony Miscioscia has a broad range of experience in complex insurance coverage, bad faith and commercial litigation matters. He is a knowledgeable and experienced coverage attorney and litigator who provides cost-effective, proactive advice to clients in the hopes of avoiding or minimizing litigation, and tenaciously represents clients in suit when needed.

Having nearly 25 years representing major property and casualty insurers and smaller regional insurance companies on a national and regional basis, insurance company clients look to Tony for advice on a number of complex and emerging issues under both first party and third party insurance policies. He has handled coverage and litigation matters including construction defect; advertising injury/intellectual property; property; homeowner's; legal, accounting and other professional liability; food contamination/product recall; environmental liability; educator's legal liability, employment discrimination, and employee benefits coverage; and bad faith claims.

As a counselor, Tony advises his clients concerning their rights and obligations with respect to a variety of claims and different types of liability insurance policies, assists clients in evaluating and mediating claims, and identifies potential additional sources of recovery and/or contribution for defense or indemnity that may be owed to a particular insured.

When insurers find themselves at odds with their insureds, claimants and/or other carriers, insurers count on Tony to zealously represent their rights and interests in various state and federal courts, as well as in private arbitrations and mediations. Tony regularly defends insurance clients against bad faith, breach of contract and declaratory judgment claims, as well as litigates affirmative actions for declaratory relief, reimbursement and/or contribution. Tony also represents insurance company clients in intervention proceedings, allowing the insurers to have a say in shaping the jury verdict sheet or jury interrogatories that may lead to a verdict against an insured – so that the insurer can better allocate any indemnity between potentially covered exposure and uncovered amounts.

In addition to representing clients in the insurance industry, Tony also represents commercial clients in litigation and arbitration involving business

Practice Areas

Insurance Coverage and Bad Faith
Bad Faith and Extra-Contractual Liability
General Commercial Litigation
Food and Beverage
First-Party Property

Bar and Court Admissions

Supreme Court of New Jersey
Supreme Court of Pennsylvania
U.S. Court of Appeals for the Third Circuit
U.S. Court of Appeals for the Ninth Circuit
U.S. District Court for the District of New Jersey
U.S. District Court for the Western District of Michigan
U.S. District Court for the Eastern District of Pennsylvania
U.S. District Court for the Western District of Pennsylvania

Education

University of Virginia School of Law, JD, 1993
Duke University, BA, *magna cum laude*, 1990

Memberships

Council on Litigation Management
Philadelphia Bar Association

and commercial disputes, including contractual indemnification, product liability, defamation and breach of contract claims. Over the years, he has arbitrated several multi-million dollar contractual indemnity/product liability cases.

Tony also partners with the insurance industry in educating both new and experienced claim professionals on topics ranging from advertising injury/intellectual property coverage and construction defect coverage to successor liability and employee benefits liability coverage.

During law school, Tony served on the Editorial Board of the *Virginia Law Review* and was a member of the Order of the Coif.

Representative Matters

- Successfully tried a case in federal court on behalf of an excess Directors and Officers insurer alleging unjust enrichment and other claims against primary carrier, and its claims handling entity, arising out of their wrongful settlement of underlying claims against common insureds, and secured a sizeable award for the client
- Successfully litigated numerous insurance coverage actions on behalf of insurance company clients involving construction defect claims in multiple jurisdictions, as well as representing carrier clients in their efforts to intervene in underlying construction defect actions for purposes of submitting special jury interrogatories allocating possible award between covered and uncovered damages
- Represented a liability insurer in evaluating scope of coverage, if any, available to an insured sued by a major food company for allegedly contaminating food product with metal particles
- Defended first party property insurer in coverage and bad faith dispute involving the extent of loss at an insured's building involving questions of whether debtor was an additional insured and scope of broker's authority
- Won appeal before the Pennsylvania Superior Court, reversing the trial court's coverage ruling against insurance client, in a coverage dispute involving additional insureds, excess/primary and expected/intended injury exclusion issues
- Defended liability insurer against suit brought by its insured seeking to recover what the insured paid to settle recall and other claims based on allegedly defective glue used in beer packaging
- Obtained summary judgment for educators legal liability insurer denying defense and indemnity to an educator prisoner for sexually assaulting a student
- Litigated a declaratory judgment action for insurance carrier concerning coverage for an intellectual property lawsuit between cell phone technology companies
- Represented first party property insurer in fire case involving dispute as to the extent of the insured premises.
- Represented primary carrier in alleged multi-million dollar coverage lawsuit filed against numerous carriers by insured seeking coverage for a putative class alleging claims for alleged property damage and economic loss resulting from the installation of defective gas piping in their properties

- Defended commercial litigation pharmaceutical client in multi-year arbitration, through trial and appeal, in defeating contractual indemnity claims against the client and obtaining a multi-million dollar award of sanctions/fees
- Handled several lawsuits on behalf of insurance carrier client against its own Errors & Omissions carrier – seeking recovery for client's alleged erroneous handling of insureds' claims

In the News

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

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

Coverage College Celebrates Its 10th Anniversary
September 22, 2016

The Ninth Annual Coverage College Features True-to-Life Case Study
October 8, 2015

Coverage College® 2014 Brings Over 600 Students Together for Eighth Annual Insurance Industry Event
October 3, 2014

Coverage College 2011® Brings Over 500 Students Together for Fifth Annual Insurance Industry Event
October 6, 2011

Events

Risk Transfer For Construction Defect Claims – Minimizing and Allocating Costs of Defense and Indemnity
CLM 2020 Annual Conference (Dallas, TX) | March 19, 2020

4th Annual Construction Defect, Claims & Litigation Strategies ExecuSummit
4th Annual Construction Defect, Claims & Litigation Strategies ExecuSummit (Uncasville, CT) | December 10-11, 2019

Coverage College 2019
October 24, 2019

Right on the Money: Allocating Construction Defect Defense and Indemnity Among Defendants and Their Insurers
12th Annual Coverage College | October 4, 2018

East Coast Meets West Coast – Hot Construction Defect Issues and Coverage Cases from the Other Coast
2018 West Coast Casualty Construction Defect Seminar (Anaheim, CA) | May 16, 2018

Evaluating Additional Insured Coverage and Contractual Indemnity
Client Presentation | April 25, 2018

Cutting-Edge Trends and Developments in Allocation Issues

Perrin Conference for Emerging Insurance Coverage & Allocation Issues (Philadelphia, PA) | April 11, 2018

What's Hot in Coverage: A Survey of the Latest and Greatest in Construction Coverage

2nd Annual Construction Defect, Claims Litigation and Strategies ExecuSummit (Uncasville, CT) | December 5, 2017

Beyond the Nuts and Bolts: Why Coverage is Always Under Construction in Construction Defect Claims

White and Williams Coverage College | October 26, 2017

A Survey of the Latest and Greatest in Construction Coverage

Inaugural Construction Defect, Claims & Litigation Strategies ExecuSummit (Uncasville, CT) | December 6-7, 2016

If You Build It, They Will Come...Claims That Is

White and Williams Coverage College | September 22, 2016

Handling and Litigating Claims Involving an Indicted, Incarcerated and/or Convicted Insured

White and Williams Coverage College | October 8, 2015

To Defend Or Not To Defend: Consequences To An Insurer Of Failing To Defend Its Insured

White and Williams Coverage College | October 2, 2014

Construction Defect Claims - Insurance Coverage Update; Proactive Versus Reactive Claims Handling

White and Williams Coverage College | October 3, 2013

Construction Defect: Coverage Update and Use of Experts in Mediation

White and Williams Coverage College | October 4, 2012

Implications of an Insurer's Failure to Settle

White and Williams Coverage College | October 4, 2012

Professional Ethics and Malpractice Avoidance

White and Williams CLE | November 30, 2011

Publications

Applying *Mighty Midgets*, NY Court Awards Legal Expenses to Insureds Which Defeated Insurer's Coverage Claims

Insurance Coverage and Bad Faith Alert | November 22, 2019

California Supreme Court Holds "Notice-Prejudice" Rule is "Fundamental Public Policy" of California, May Override Choice of Law Provisions in Policies

Insurance Coverage and Bad Faith Alert | August 30, 2019

Three-Year Delay Not "Prompt Notice," But Insurer Not "Appreciably Prejudiced" Either, New Jersey Court Holds

Insurance Coverage and Bad Faith Alert | August 16, 2019

New Jersey Federal Court Examines And Applies The "j.(5)" Ongoing Operations Exclusion

Insurance Coverage and Bad Faith Alert | August 1, 2019

PA Superior Court Provides Clarification on Definition of CGL “Occurrence” When Property Damage Is Caused by Faulty Building Conditions

Insurance Coverage and Bad Faith Alert | July 25, 2019

Indiana Federal Court Holds No Coverage for \$50M Default Judgment for Lack of Timely Notice of Class Action

Insurance Coverage and Bad Faith Alert | June 5, 2019

“Based On”... What Exactly? NJ Appellate Division Examines Phrase and Estops Insurer From Disclaiming Coverage for 20-Month Delay

Insurance Coverage and Bad Faith Alert | May 31, 2019

Federal Court Asks South Dakota Supreme Court to Decide Whether Injunction Costs Are “Damages,” Adopts Restatement’s Position on Providing “Inadequate” Defense

Insurance Coverage and Bad Faith Alert | May 28, 2019

Two Recent Cases Highlight the Importance of Complying With New York’s Coverage Disclaimer Rules

Insurance Coverage and Bad Faith Alert | January 29, 2019

Insureds Suing Individual Adjusters – What Will Change If The Washington Supreme Court Decides That Adjusters May Be Sued For Bad Faith?

The Complex Insurance Coverage Reporter | December 11, 2018

New York Appellate Court Holds Insurer’s Failure to Defend Does Not Constitute a “Reasonable Excuse” Required to Overturn Judgment

Insurance Coverage and Bad Faith Alert | December 4, 2018

New Kvaerner Endorsements Revive the “Occurrence” Debate - But Will They Work?

The Brief | Summer 2018

Cases & Deals

Insurance Coverage Team Defeats Bad Faith Claim that Insurer Wrongfully Settled Some Claims to Avoid Payment on Others

May 4, 2017

Insurance Coverage Team Obtains Rescission of Policy in Multi-Million Dollar Collapse Case

May 4, 2017

Coverage Team Obtains Summary Judgment in Faulty Workmanship Case

May 2, 2017

Coverage Team Successfully Protects Insurer from Covering Sexual Abuse Claims Against School Teacher

October 19, 2016