

Life, Health, Disability and ERISA

The Life, Health, Disability and ERISA (LHD&E) 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 through the bad faith thicket. We 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:

- 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

PRACTICE CONTACTS

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RELATED PRACTICES

Healthcare
Insurance Coverage and Bad Faith
Insurance Fraud
Litigation

RELATED INDUSTRIES

Healthcare
Insurance

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.

- 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

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
- Bad faith
- Breach of fiduciary duty
- Plan interpretation

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."

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

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

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

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

Filed numerous declaratory judgment actions concerning scope of coverage under life, health and disability insurance plans

NEWS

Two White and Williams Lawyers Included In City & State PA's Law Power 100
6.28.22

White and Williams Welcomes Ten New Associates
11.4.21

Rafael Vergara Weighs In On New Jersey Assisted Living Decision
McKnight's Senior Living, 7.2.21

White And Williams Announces Lawyer Promotions
Three Lawyers Elected to Partnership and Eight Associates Promoted To Counsel
1.4.21

13th Annual Coverage College Hosts Over 400 Insurance Professionals
11.1.19

Chambers USA 2019 Ranks White and Williams as a Leading Law Firm
4.26.19

12th Annual Coverage College Features Current Trends and State of the Insurance Claims Industry
10.23.18

David Marion Recognized by *Best Lawyers* as "Lawyer of the Year"
8.15.18

Chambers USA 2018 Ranks White and Williams as a Leading Law Firm
5.10.18

Chambers USA 2017 Ranks White and Williams as a Leading Law Firm
5.26.17

White and Williams' Insurance Practice Receives Top Honors
9.22.16

Prominent Trial Attorney David Marion Joins White and Williams
9.6.16

Chambers USA 2016 Ranks White and Williams as a Leading Law Firm
5.31.16

White and Williams Earns "Best Law Firm" Distinction by US News and World Report
11.3.15

Chambers USA 2015 Ranks White and Williams as a Leading Law Firm
5.19.15

PUBLICATIONS

US Supreme Court's Oral Argument in *California v. Texas*: Reports of the Affordable Care Act's Demise May be Greatly Exaggerated
Healthcare Alert, 12.14.20

Are We Nearing the End of the ACA?: Return to *California v. Texas*
Healthcare Alert, 11.5.20

NJ Supreme Court Rules STOLI Policies Violate Public Policy and Void at the Outset
Litigation Alert, 6.5.19

Cross-Plan Offsetting to Recoup Overpayments to "Out-Of-Network" Providers Held Unreasonable
Life, Health, Disability and ERISA Alert, 1.16.19

Purported Assignment and Power of Attorney Held Invalid in Provider's Suit to Recover Health Benefits
Life, Health, Disability and ERISA Alert, 12.13.18

The "Hungry Tapeworm" of Healthcare the New Joint Focus of Amazon, Berkshire Hathaway, JP Morgan
Healthcare Alert, 1.30.18

Healthcare Reform Progress or More Fits and Starts?
Healthcare Alert, 10.19.17

Fall 2017 Healthcare Update: If at First You Don't Succeed, Try, Try Again
Healthcare Alert, 9.21.17

DOL's Year-End Mic Drop: Final Rule Amending ERISA Disability Claim Procedure Regulations Released
Ammo for Claimants; A Blow to Administrators and Plans
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, 6.15.17

Up To The Task
White and Williams Takes Team Approach to Insurance Litigation
The Legal Intelligencer, 11.2.16

Medical Document Reviewer Hired by an Insurer Does Not Owe a Duty to an Insured, Says the Third Circuit Court of Appeals
Healthcare Alert, 9.29.15

EVENTS

Lehigh Valley Labor & Employment Seminar
Webinar, 5.26.21

Practical ERISA Issues
Webinar, 4.21.21