

Insurance

Overview

Munsch Hardt's Insurance Recovery practice is driven by experienced and respected Insurance lawyers who are committed to solving problems for clients and maximizing their insurance investments. This group is called on before, during and after insurance triggering events to assess risk, facilitate prompt claims resolution, address coverage issues that may arise, and, if necessary, litigate insurance coverage and bad faith issues.

Whether handling company-critical coverage disputes, giving advice on various forms of captive insurance, assisting with risk management and insurance procurement issues in transactional settings, conducting due diligence or navigating representations and warranties coverage for a merger or acquisition, our attorneys possess the knowledge, experience and insight to guide you skillfully and cost-effectively through the challenging insurance minefield, helping its clients enforce their rights their insurance policies.

We are active in assisting clients to obtain insurance recovery and protection from a wide-range of products and in numerous diverse industries - energy, construction, environmental, manufacturing, automotive, real estate, manufacturing, and more. This group prides itself on having diverse skills with which to resolve insurance conflicts. We realize that litigation is a critical skill set, but it is not always the most effective tool. Strategy, scholarship, negotiation, familiarity with the language of claims and an ability to identify the shortest distance between two points can achieve results that are more effective for most businesses. Handling insurance issues involving a variety of insurance products provides a depth of knowledge and experience that leads to creative solutions and recovery victories. We have worked with virtually every line or type of insurance product, including the following:

- D & O insurance
- Commercial general liability insurance
- Commercial automobile insurance
- Commercial property insurance
- Cyber insurance
- Builder's risk insurance
- Business interruption insurance
- Aviation + maritime policies
- Crime + fidelity insurance
- Employers liability insurance
- Executive liability
- Fiduciary liability
- FLSA coverages
- Intellectual property coverages
- Medicare fraud coverage, mortgage + other credit risk claims
- Non-subscriber plans + related liability coverage
- Owner-controlled insurance programs (OCIP) + contractor-controlled insurance programs (CCIP)
- Pollution legal liability coverages
- Professional liability insurance — primary and excess / umbrella, including (i) architects + engineers; (ii) Owners Protective Professional Indemnity Insurance (OPPI); (iii) project-specific professional liability; (iv) adjusters; (v) insurance agent errors + omissions; and (vi) medical professionals + health care providers
- Product recall insurance
- Reinsurance
- Risk-retention group policies
- Representation + warranties coverage
- Technology errors + omissions insurance
- Self-insured retentions
- Surplus lines insurance + coverage under Lloyd's plans

Our attorneys also provide risk management analysis and assistance regarding the drafting of indemnity and insurance procurement provisions (particularly involving additional insured requirements). In addition, our Insurance group provides litigation management assistance in large loss cases involving complex liability and insurance coverage, as well as risk management issues.

The Munsch Hardt Insurance group includes recognized leaders in insurance law. Mike Huddleston is acknowledged in *Woodward/White, Inc.* Best Lawyers in America, Texas' Best Lawyers in Insurance Law (2006-2020) and "Lawyer of the Year" (2015, 2019); *D Magazine* Best Lawyers in Dallas in Insurance (2012-2019), a Band 1 "Top Ranked" Leaders in Their Field in Insurance - Texas by *Chambers USA - Texas* (2004-2019); the "Go-To Lawyer" in Insurance Law for Texas in 2012 as selected by *Texas Lawyer News Magazine*; a "Texas Trial Legend" for the Tort & Insurance Section of the Dallas Bar Association; and a member of the American College of Coverage and Extra-Contractual Counsel. Our attorneys are also active participants in statewide organizations devoted to insurance law, including one of the founding officers of the Insurance Section of the State Bar of Texas.

In addition to our pure insurance attorneys, our Firm offers a fully integrated team dedicated to developing specialized solutions for specific industries and policy types. These areas include:

APPELLATE

Munsch Hardt has a skilled Appellate Section that is actually experienced in insurance matters, something many firms cannot claim. With experience briefing and arguing before the Texas Supreme Court, the various state appellate courts and the Fifth Circuit Court of Appeals, the Munsch Hardt Appellate Section adds value not only to the appeal of the insurance case, but also to the technically challenging job of properly charging and instructing the jury in these challenging cases.

BANKRUPTCY, RESTRUCTURING & INSOLVENCY

Recognized by *Chambers USA* since 2005, our Bankruptcy, Restructuring & Insolvency group has extensive experience representing all major constituencies in bankruptcy, restructuring and insolvency matters. We are adept at every facet of the bankruptcy and restructuring process, which allows our clients to better evaluate possible outcomes, develop strategies, assess risks and ultimately plan for the future.

CONSTRUCTION

Our Construction Section regularly must navigate the numerous insurance challenges presented in almost all construction litigation. Thus, our clients have the benefit of a team of Construction and Insurance Recovery lawyers knowledgeable about what claims or parts of claims are most likely to be covered and how they should be pursued to maximize recovery. In addition, these teams work closely together on risk management issues presented in complex construction contracts and related agreements, including consideration and implementation of owner-controlled insurance programs, contractor controlled insurance programs.

ENVIRONMENTAL

Our experience encompasses coverage archaeology and reconstruction, claims notification, negotiation, claims management, litigation, policy procurement and negotiations, due diligence, insurance evaluations and alternative dispute resolution. The Firm provides expeditious and cost-effective resolution of environmental insurance coverage claims and litigation, even when faced with exclusions and lost policies. Our Superfund (CERCLA) experience provides valuable knowledge of technical issues necessary to prove coverage during applicable policy periods.

HEALTH CARE

The Health Care group works in tandem with the Insurance Recovery Group in seeking to obtain coverage for a number of vexing claims, including subpoenas and claims for Medicare fraud, FLSA claims and medical malpractice claims. Through the joint efforts of these groups, litigation of these claims is either directly handled or monitored by counsel the health care professional can trust and the vexing coverage issues raised by some carriers can be expeditiously handled.

LITIGATION

Our Litigation group provides a depth of experience that few Insurance Recovery Groups possess. For example, federal court can be a vexing place for many policyholders, but Munsch Hardt's litigation group has lawyers with extensive experience in the federal system that often cannot be equaled by the opposing carrier. When litigation is the best approach to solving the coverage dispute, our insurance lawyers – backed by the deep bench of our renowned litigation practice—operate from a position of strength. The combined talents of the Litigation group and the Insurance Recovery group also have been often called upon to provide litigation management of complex, bet-the-company litigation, which has the additional wrinkle of insurance conflicts as well.

MERGERS & ACQUISITIONS

Our team of Mergers & Acquisitions attorneys regularly represents buyers, sellers and investors in connection with domestic and international mergers and acquisitions, asset and closed block transactions, joint ventures, mutual holding companies, spin-offs and recapitalizations. We also have experience with bulk reinsurance, loss portfolio transfers and renewal rights transactions, as well as broker/agency roll-ups and other acquisitions for insurance intermediaries and insurance industry service providers. The Insurance Recovery group is also often called on the assist with due diligence regarding liability exposures and existing insurance. The group has also aided with the use of representations and warranties coverage as a tool in the merger and acquisition field. The use of such coverage involves extensive knowledge of insurance and the interrelationship of the sale documents with the coverages.

REAL ESTATE

Munsch Hardt has extensive experience in representing building owners, developers and contractors. The Insurance Recovery group works with the Real Estate Group lawyers in the drafting of insurance procurement, indemnity and other risk management devices, such as disclaimers and prospective releases. Real estate clients of the Firm have the benefit of also having the Insurance group available to assist in the making and handling of commercial property and general liability claims related to their businesses. Our attorneys are experienced in knowing where the risk allocation dollars are located and in prosecuting indemnity and insurance claims in order to capture those dollars for the benefit of the real estate client. Our insurance lawyers also provide advice to real estate clients regarding the selection of coverage for particular projects, including advice regarding OCIP's and CCIP's, and analysis of areas where there are insurance gaps, such as with professional liability, requiring the consideration of OPPI's and project specific professional liability coverage.

WARRANTY

Fueled by the growth of warranty insurance, the market for transactional risk insurance products grew more than 200 percent over the past four years, rivaling cyber insurance for the fastest growing insurance market. Whether on behalf of buyers or sellers, we draft and negotiate the terms of warranty and other transaction liability policies to minimize our clients' deal risk.

Experience

Insurance Coverage Dispute

Represented an oil and gas exploration and production company on claims for indemnity and breach of contract related to an explosion and fire at a well site. Munsch Hardt assisted in the defense and settlement of underlying claims and in suits to recoup amounts paid from co-interest owners, indemnity and insurance claims against co-defendants. The matter before the Texas Supreme Court twice and went to the Texarkana Court of Appeals three times. As a part of our representation, we achieved a settlement for more than \$17 MM from the insurer.

Insurance Coverage Dispute

Represented the owner of a bucket truck company that services power lines in an insurance coverage dispute. The plaintiff was severely injured on the job and initially the bucket truck company's two insurance providers – commercial and auto – denied defense and coverage. Munsch Hardt filed breach of contract and declaratory judgments against both providers, which ultimately led the providers to re-assume defense of the case just prior to mediation. Without insurance coverage, this company would have been put out of business by the claim.

Products Liability Coverage

Represented a large regional car dealership in dealing with its primary, excess and super-excess general liability and umbrella insurers in connection with the defense and handling of a claim involving multiple wrongful deaths with three bystanders. Munsch Hardt convinced the primary carrier it had a conflict regarding its use of captive counsel to defend and worked with the umbrella carrier to assist in hiring a high level defense and appellate team. We also worked to make sure the carriers had all necessary information with which to reasonably evaluate the claim. Despite coverage and evaluation issues, the case was satisfactorily settled well within policy limits.

Insurance Coverage Dispute

Represented a manufacturer of drilling systems for the oil and gas industry who was sued by hundreds of plaintiffs and dozens of defendants for exposure to naturally occurring radioactive material from a pipe scale. Munsch Hardt was retained to handle all aspects of insurance coverage for claims dating back more than 40 years. The Firm successfully obtained all relevant insurance information, placed all primary and excess carriers on notice, handled all workers compensation issues for the individual plaintiffs that turned out to have been an employees, and negotiated with all carriers towards a joint cost sharing agreement. Ultimately, the Firm obtained a defense from many of the carriers, and finalized an agreement for the carriers to reimburse the manufacturer for past defense bills and to pay on a going forward basis on an individual percentage basis.

Professional Liability Coverage

Represented a property management company after a couple suffered brain damage from alleged exposure to carbon monoxide while staying at a hotel. The primary carrier agreed to accept coverage, but the excess carrier refused, pointing to an absolute or total pollution exclusion included in the policy. The Munsch Hardt team facilitated a Coblenz agreement that included the tender of limits by the primary, an assignment of rights against the umbrella carrier, and ultimately a full release (after the insurance litigation) for the property management company and hotel interests.

Products Liability Coverage

Represented a trucking company in bus accident claims involving five fatalities and several others with serious personal injuries. The potential exposure substantially exceeded the company's coverage. Our team fully analyzed all available coverage and then used it to avert the danger of the carriers cashing out on the wrongful death claims in response to Stowers demands, and then acted, with the cooperation of the carriers, to get all claims, save one, settled within policy limits. The remaining claimant never filed suit.

Personal Injury Coverage

Represented a foreign tire manufacturer in multiple cases in different jurisdictions regarding personal injuries alleged resulting from rollovers involving defective tires. The Munsch Hardt team analyzed the coverage positions and claims handling of the primary and excess carriers, defended claims made by those carriers and made a reimbursement claim against one of the carriers. Ultimately, all personal injury claims were settled, and all claims against the carriers were successfully resolved.

Products Liability + Wrongful Death

Handled a dispute regarding the insurability of punitive damages in connection with multiple claims resulting from an automobile accident involving an oil and gas company employee, including a wrongful death claim, including issues regarding the failure to adequately and timely reserve rights. Worked to make sure umbrella carrier had all necessary information to evaluate settlement opportunities presented in connection with the claims. Claims were successfully settled within policy limits.

Practice Leaders



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Related People

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Justin Ratley
Adam Richie
Caitlin Roberts
Nathan Vrazel
B. Lee Wertz
Kelly Wise

Related Practices

Bankruptcy, Restructuring & Insolvency
Finance
Labor & Employment
Real Estate
Litigation
Environmental

Related Industries

Admiralty & Maritime
Financial Services
Construction
Energy
Health Care
Hospitality
Manufacturing
Real Estate
Retail
Technology & Telecommunications
Transportation

Achievements

Chambers USA – Texas (2019)

Best Lawyers® “Best Law Firms”, published by *Woodward/White, Inc.* – Insurance Law, Metropolitan Tier Ranking (2020-2024)

Best Lawyers® “Best Law Firms”, published by Woodward/White, Inc. – Litigation – Insurance, Metropolitan Tier Ranking (2023-2024)

Newsroom

Article: Don't Set Sail In A Leaky Ship — D&O Insurance: How To Negotiate Your Policy To Plug The Holes In Coverage

Press Release: Best Lawyers® Names Munsch Hardt to 2024 “Best Law Firms” in America List

Speech: Insurance and Indemnity Provisions in Commercial Real Estate Contracts

Press Release: Munsch Hardt Ranks Among Nation’s Top Firms in 2023 “Best Law Firms” List by U.S. News - Best Lawyers®

Press Release: Munsch Hardt Named to 2022 “Best Law Firms” List by U.S. News – Best Lawyers®

In The News: Texas Reopens Without Covid Liability Safe Harbor In Place

Article: 2021 Freeze Relief: Tips for Commercial Property Owners/Interests/Managers and Homeowners

Article: Use and Abuse of Claims Experts in Bad Faith Litigation

Speech: Business Interruption and Related Coverages in A Pandemic

In The News: Business Interruption Lawsuits Are Not Going Tenants' Way

Speech: Business Interruption—Going Viral: The Latest Developments In The Pandemic Coverage Fights

In The News: Coronavirus-Rattled Insurance Industry Faces Onslaught Of Riot Damage Claims

Press Release: Michael Huddleston Receives Russell H. McMains Legends of Texas Insurance Law Award

Speech: The Business Interruption Insurance Maze In the Wake Of Coronavirus

Speech: Sorting Out the Rules & Responsibilities of Primary and Excess Carriers in the Defense of Bet the Company's Litigation

Article: Matters To Consider: Sorting Out Business Interruption Insurance in the Midst of a Pandemic

In The News: Lawmakers Jump Into Business Interruption Debate As Fate Of CRE, Insurers Hang In The Balance

Newsletter: COVID-19: Insurance Resources

In The News: Why Litigation Fears Mean Firms' Phones Are Still Ringing

Speech: Hotel Owners + The Novel Coronavirus Webinars

Newsletter: COVID-19: Insurance Concerns For Businesses

In The News: Texas Justices Refuse To Weaken Insurance Defense Rule

In The News: Construction Is Mostly Continuing Nationwide, But Firms Need To Beware Of Hidden Liabilities

In The News: CRE Tenants, Landlords Worry They Could Be Sued Over Coronavirus Infections

Speech: Richie Speaks at Engineering Law & Ethics Seminar

In The News: Texas Justices Wary Of Exception To Insurance Defense Rule

Oral Argument: State Farm Lloyds v. Janet Richards, et al.; Case No. 19-0802

Article: 2019 Year in Review: Insurance Law

Article: Tornado Relief Tips for Commercial Property Owners/Interests/Managers and Homeowners

In The News: Exceptions To '8 Corners Rule' Are Invalid, Texas Justices Told

Press Release: Chambers USA 2019 Ranks Five Munsch Hardt Practice Groups and Seven Lawyers

Speech: Duty to Defend: The Eight-Corners Rule and Extrinsic Evidence

In The News: Commercial General Liability Insurance Guide: Everything You Need to Know

Speech: What's It Worth? Evaluating Risk and Exposure in Complex Damage Cases

Oral Argument: Life Partners Creditors' Trust v. Cowley; Case Nos. 17-11477, 17-11480, 17-11488, 18-10051, and 18-10056

Press Release: Munsch Hardt Ranks Among Nation's Top Firms in 2019 Best Law Firms List

In The News: Legal Malpractice Insurers Looking Earlier To Sue Their Attys

Speech: Michael Huddleston and Nolan Knight Present at Advanced Insurance Law Conference

Speech: Transactional Liability Insurance

Press Release: Munsch Hardt Launches Blog, Brings Attention to the Latest in Immigration Law

Article: Who's Liable For A Crash When It's The Car Driving?

Speech: What We Have Learned From Menchaca

Speech: The Duty to Settle in Texas

Speech: On Land and Sea: A Practical Guide to Indemnity in the Energy Sector

Article: Remembering Vail and One of its Architects

Press Release: Munsch Hardt Recognized as Industry Leader in 2016 Chambers USA

Newsletter: New York Choice of Law Provisions

Press Release: Thirteen Munsch Hardt Attorneys Recognized as 2015 Texas Super Lawyers

Press Release: Seventeen Munsch Hardt Attorneys Recognized as 'Best Lawyers in America 2016'

Press Release: Munsch Hardt Practice Groups, Lawyers Recognized as Industry Leaders in 2015 Chambers USA

Press Release: 6 Munsch Hardt Attorneys Recognized as 2015 Best Lawyers in Dallas by D Magazine

In The News: SEC Cites 'Misleading' Life Partners Release In Trustee Bid

Article: Insurance Issues in Mergers and Acquisitions

Article: Insurance Law

Press Release: Munsch Hardt Earns 2015 Top-Rankings from U.S. News-Best Lawyers® Best Law Firms

Press Release: Seventeen Munsch Hardt Attorneys Recognized as 'Best Lawyers in America 2015'

Press Release: Munsch Hardt Expands Energy and Maritime Practice Through Addition of Attorney in Houston Office

In The News: Dallas Law Firm Moves Into New Houston Digs

Article: Insurance Law: 2013 Year In Review

Press Release: Huddleston Elected to American College of Coverage and Extracontractual Counsel

Press Release: Munsch Hardt Ranks Among U.S. News – Best Lawyers 2014 “Best Law Firms”

Press Release: Best Lawyers 2014 Recognizes Munsch Hardt Attorneys

Press Release: Munsch Hardt Welcomes Dallas Additions

Press Release: Skilled Insurance Attorney Michael W. Huddleston Joins Munsch Hardt

In The News: Worker Deaths Not 'Occurrence' Under Okla. Law, Insurers Say

Press Release: U.S. News - Best Lawyers Recognizes Munsch Hardt Attorneys

Press Release: D Magazine Names Two Munsch Hardt Best Lawyers in Dallas