

Policyholder Insurance Recovery Practice

Covington has what is widely recognized as the nation's preeminent policyholder-side insurance coverage practice. We help our corporate policyholder clients recover insurance proceeds for a wide array of claims, including mass-tort and environmental liabilities, business interruption and property losses, management and professional liabilities, and numerous other exposures. Our record of maximizing insurance recoveries—through negotiation, arbitration, and litigation—spans more than 35 years, and we have been described as the “gold standard.”

“Covington & Burling is a true dream team of superstar policyholder lawyers. The synergy a client gets from having that much experience and brainpower under one roof is incomparable. ... It is a terrific firm; they really understand our business, which translates into great practical advice.”

Chambers USA 2019 edition

Our dedication to our policyholder clients has enabled us to forge durable and rewarding working relationships. We represent only policyholders in insurance coverage matters and do not serve on insurer-sponsored panel counsel lists. With each new insurance case, we carefully weigh litigation versus settlement options. While we have a superb record of successful insurance coverage litigation and arbitration, we do not reflexively run to court with every new engagement. Indeed, due to our experience and reputation, we are often able to reach advantageous settlements without (or in the early stages of) litigation. However, where litigation is necessary to secure the client's objectives, our scale, experience, and locations on both the East and West Coasts as well as in London allow us to handle matters of great size and complexity in state and federal courts across the U.S. and in both domestic and international arbitration proceedings.

We believe that helping secure a large recovery for a client is genuinely positive *only* if we deliver good value in the process. We provide early and candid assessments of whether the

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likely benefits of pursuing a coverage claim will justify the likely costs. Our fees are typically a small fraction of the recovery.

Leading Policyholder Lawyers

According to the most recent legal rating guides published by *Chambers*, *The Legal 500*, and *Benchmark Litigation*, Covington alone has the top-ranked policyholder practice in the U.S., the District of Columbia, and California, as well as one of the leading practices in the UK. For the tenth consecutive year, Covington was again the only law firm *Chambers USA* recognized in 2019 with its nationwide “Band 1” rating in the policyholder category. *The Legal 500* has written that “clients and peers agree that ‘there is no comparison’ and its practice is ‘truly best in class.’” In the twelve years during which *Chambers* has presented its Award for Excellence in Insurance, Covington received the prize seven times and been shortlisted the other five.

Ranked as the Top Policyholder Practice

Chambers USA (2019)
Chambers USA (2018)
Chambers Global (2018)
The Legal 500 US (2017)
Benchmark Litigation (2017)

Confirming the unmatched depth of our policyholder coverage practice, the most recent editions of *Chambers USA* and *UK* identify fifteen of our lawyers as among the best in the field—far more than any other policyholder firm. In *Chambers Global 2018*, Covington is the only listed firm dedicated to representing policyholders.

Highlights of Recent Results

Our insurance coverage work runs the gamut, whether measured by the type of loss, the type of policy, or the type and location of the dispute resolution proceeding. The examples below reflect that variety, but cannot fully capture the breadth of our practice, which includes less routine subjects such as aviation, cargo, construction defect, crime, political risk, reps and warranties, and product recall insurance, as well as many disputes that are quietly resolved between our clients and their insurers. The results reflected in the cases highlighted below are a tribute to the close collaboration and teamwork of our clients and our lawyers at all levels of seniority.

Asbestos—Covington was a pioneer in the field of asbestos coverage and has a long record of successfully pursuing coverage from coast to coast for asbestos liabilities, including for such early and leading asbestos coverage claimants as Armstrong and Owens Corning. Our asbestos coverage work continues today, and our current or recent asbestos coverage cases include matters for Carrier, Deere, ExxonMobil, Foster Wheeler, Goodrich, Goodyear, Lincoln Electric, Otis Elevator, SPX, and Thermo Fisher, among many others. In addition to litigating asbestos coverage cases around the country, we have a strong record of reaching successful settlements for our clients. Over last five years alone we helped our clients successfully resolve their asbestos coverage claims with more than 100 insurers.

Bermuda Form and Other International Arbitrations—We have handled major international coverage arbitrations arising under “Bermuda form” and other policies for numerous clients in proceedings in London and Hamilton. We handled confidential arbitration hearings in both jurisdictions for Norfolk Southern in separate coverage disputes arising out of its substantial liabilities and losses for a train derailment in Graniteville, South Carolina. A few years earlier, we achieved a major victory for Merck in a London arbitration involving coverage for Vioxx-related claims. Although the arbitration ruling was confidential, Merck publicly disclosed that it had recognized approximately \$590 million in income as a result of that ruling and negotiated settlements, plus approximately \$45 million in fees and interest payments. We have also represented Cardinal Health, Eli Lilly, GlaxoSmithKline, and other life sciences companies in Bermuda form proceedings.

Class Action and Mass Tort—Covington has a leading national practice in assisting policyholders obtain insurance coverage for liabilities arising from class action and mass tort claims other than asbestos. For example, we are currently representing both the National Football League and helmet manufacturer Riddell in ongoing coverage litigation concerning insurance for head injury tort lawsuits brought by thousands of retired NFL players, including in connection with the NFL’s settlement of MDL litigation.

Cyber Security Claims—We have represented policyholders in some of the largest data breaches in history. Such clients include Heartland Payment Systems, Target, and TJX.

D&O, E&O, and Financial Sector Claims—We have pursued coverage claims under errors and omissions, directors and officers, and other lines of insurance, including financial guarantee insurance, on behalf of numerous clients in financial and other business sectors. For example, we represented Morgan Stanley in litigation in New York against Lloyd’s and more than a dozen other insurers regarding approximately \$250 million in coverage under financial institutions professional liability insurance policies, S&P Global in connection with E&O coverage for ratings litigation, and the former CEO of IndyMac in connection with coverage for securities litigation and investigations. We secured summary judgment for Sprint Nextel dismissing a Virginia lawsuit filed by a D&O insurer seeking to recoup its policy limits contribution to a securities class action settlement. Many of our E&O and D&O representations involve claim presentation work that results in favorable resolutions without recourse to coverage litigation.

Environmental Coverage—We have represented businesses in environmental coverage matters for three decades. Most recently, we secured a jury trial victory for KeySpan Gas for coverage for environmental cleanup costs at former manufactured gas plant sites on Long Island. We also secured two jury verdicts for Narragansett Electric in a multi-phase environmental coverage case in Boston. Our client NCR publicly disclosed recoveries of more than \$150 million in an environmental coverage case we handled in Wisconsin. We achieved more than 20 settlements for Conrail as part of an ongoing environmental coverage litigation in Pennsylvania. We are representing Northrop Grumman against several liability insurers involving 30-plus sites, including several Government Owned Contractor Operated sites, where Northrop Grumman’s predecessor had manufactured military aircraft and other defense-related equipment during WWII.

Oil Spills and other Major Accidents—We represented BP in five insurance coverage actions in multi-district litigation concerning coverage for the *Deepwater Horizon* incident and related bodily injuries and property damage in the Gulf of Mexico. We represented World Fuel on coverage issues arising out of the 2014 Lac Megantic derailment, and represent two railroads on other derailment claims. During the 1990s, we represented Exxon in the hotly contested,

multi-forum claims for coverage of losses arising out of the grounding of the *Valdez*, resulting in total recoveries of \$780 million.

Property and Business Interruption Losses—We have handled a wide array of property and business interruption matters, including major claims arising out of natural disasters such as hurricanes, earthquakes, floods, and freezes, as well as large losses arising out of the 9/11 terror attacks. Covington recently represented PSEG, the leading New Jersey based utility company, in litigation over coverage for property damage caused by Hurricane Sandy, securing a precedent setting ruling in the process, and obtained an arbitration victory for Williams Companies, assisting that client to recover more than \$425 million for losses resulting from a chemical plant explosion.

Settlement and Mediation—In addition to our litigation and arbitration victories, we continue to achieve outstanding results for our policyholder clients at the settlement table or in mediation. In many cases, our coverage matters involve both a settlement and a litigation track, with close coordination between the two. We often help clients craft an early and effective settlement strategy. Over their careers, our coverage lawyers have helped policyholders reach well over 1,000 insurance settlements, with total recoveries well exceeding \$20 billion, and with resolutions occurring at various stages of disputes (including without litigation). Individual settlement amounts have ranged from five to nine figures.

Solvent Schemes of Arrangement—We represent U.S. policyholders opposing solvent schemes of arrangement in the UK courts, which are designed to cut off longstanding rights worth hundreds of millions of dollars. Representing a group of policyholders, we led the first ever court challenge to a direct solvent scheme in the British Aviation scheme, which led to the UK courts refusing to sanction that scheme. We also successfully represented policyholders challenging the WFUM and Scottish Lion schemes in the UK courts. We also have extensive experience assisting clients pursue and resolve claims in solvent schemes, as well as against the liquidators of (and guaranty funds for) insolvent insurers in the U.S. and abroad.

Trial and Arbitration—We have substantial experience in trying or arbitrating insurance coverage disputes. In the past year alone, we have prevailed in trials or arbitrations in insurance coverage trials or arbitrations involving asbestos, business interruption, catastrophic accident, crop, errors and omissions, and property insurance issues.

If you have questions concerning the firm's policyholder coverage practice, please reach out to any of the firm's coverage practitioners listed on our website or the following office contacts:

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