



Policyholder Insurance Coverage Practice in London

COVINGTON

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Introduction

Covington has one of the world's preeminent insurance coverage practices for policyholders. 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, cyber risk losses and numerous other exposures. The size of the firm's practice and its various locations allow us to handle matters of great size and complexity worldwide. Our record of maximizing insurance recoveries — through negotiation, arbitration, and litigation — spans more than 30 years.

Covington's London insurance coverage practice represents large corporate policyholders in coverage disputes with insurance companies operating in the London market and elsewhere, in both English and European courts and in London arbitrations, as well as acting for them in complex negotiations and advising them on policy wordings. In addition, we counsel and represent policyholders in connection with their dealings with insolvent London market carriers.



Covington does not act for any of the other participants in the insurance market (e.g., brokers, insurers or re-insurers) in coverage disputes, which distinguishes us from the vast majority of other London law firms in the sector and keeps us focused on the best outcomes for our clients, free from potential conflicts of interest. We are ranked as a London policyholder practice by Chambers.

Our Work

Litigation in the English Courts

We represent corporate policyholders in a variety of complex coverage disputes in the English Courts. In 2018, for example, we represented the American School of Dubai in Commercial Court proceedings against a number of insurers which have now settled.

We are also the leading law firm representing policyholders opposing solvent schemes of arrangement, which are designed to cut off extremely valuable longstanding rights, and we led the first ever challenge in the High Court to an insurer's solvent scheme in the British Aviation Insurance Company case, which resulted in the court refusing to sanction that scheme. In 2018, our intervention resulted in a positive court outcome for policyholders in re Stronghold Insurance Company Limited.

London Insurance Coverage Arbitrations

We represent corporate policyholders in substantial London insurance coverage arbitrations against "Bermuda Form" carriers and others whose policies include London arbitration clauses, in a number of insurance fields including product liability and business interruption. These arbitrations involve large sums and we have made significant recoveries for our policyholder clients.

Policy Wording and Insurance Law Advice

We advise on the wording of policies with insurers in the London market and elsewhere, often working with brokers. We draw on both our experience of insurance disputes relating to wordings and the industry knowledge within our firm to maximize coverage and minimize future uncertainty over wordings that often cover complex contingencies in specialist areas.

We made representations to the Law Commission in connection with the drafting of the Insurance Act 2015 and have advised clients on wording issues thrown up by the Act that continue to arise on placement, renewal and generally.

Representative Experience

- Representing the American School of Dubai in complex and hard-fought proceedings in the Commercial Court against the professional liability insurers of an insolvent former professional adviser, relating to the latter's negligence in relation to a construction project.
- Assisting a number of clients including Exxon Mobil Corporation, Goodrich, Goodyear, ITT and Textron in opposing efforts by solvent London Market companies to use solvent schemes of arrangements to curtail their coverage obligations to policyholders facing long-tail liabilities, such as asbestos, silica or environmental claims. These efforts have involved litigation in the English and Scottish Courts.
- Representing members of the Howden group in two sets of proceedings in the Commercial Court in London, challenging the English Court's Jurisdiction in relation to declaratory proceedings commenced by insurers in London in an attempt to avoid participation in long-running insurance coverage proceedings in the USA to the value of over \$170 million.
- Advising various corporate clients in disputes with their insurers under Directors' & Officers' and Representation & Warranties/ Warranty & Indemnity insurance policies.
- Representing Merck & Co., Inc. in an insurance coverage arbitration involving claims against multiple insurers seeking insurance coverage for Vioxx-related product liability, D&O and ERISA claims. Although the arbitration ruling is confidential, Merck publicly disclosed that it had recognized approximately \$590 million as a result of that ruling and negotiated settlements, plus approximately \$45 million in fees and interest payments.
- Representing Orlen Lietuva in proceedings in the High Court against insurance brokers Aon for alleged negligence relating to Aon's placing of Business Interruption coverage, which were settled on confidential terms during trial.
- Advising clients on policy wording issues arising as a result of the entry into force of the Insurance Act 2015.
- Acting for a European oil refinery business in an *ad hoc* arbitration against various UK underwriters arising out of property damage and business interruption claims exceeding \$150 million.
- Acting for Owens Corning in an arbitration-related injunction proceeding before the Commercial Court in London.
- Acting for Pilkington in product liability insurance coverage litigation before the Commercial Court in London.

Key Contacts in London

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