

## insurance recovery & advisory

Having the right insurance is critical to your business. So, too, is having the right coverage lawyers on your team

Thompson Coburn's Insurance Recovery and Advisory practice provides comprehensive legal counsel and strategic guidance to clients navigating the complexities of insurance and risk management. Our team of seasoned attorneys assists clients in optimizing their insurance programs, maximizing recoveries for losses, and effectively managing coverage disputes. Some of our attorneys have valuable experience as former insurance regulators, while others have worked in-house at insurance companies, bringing a unique blend of regulatory insight and industry knowledge.

We offer a broad range of insurance-related legal services for your business.

**Optimizing Insurance Programs:** We work with you to identify potential exposures, assess risks, and develop tailored insurance solutions. We review existing insurance programs to identify gaps in coverage and recommend adjustments. Our experience in policy placement helps clients secure optimal terms and conditions. Going further, we have even designed tailored insurance programs to meet the unique needs of self-insured businesses.

**Maximizing Claim Recoveries:** When a loss occurs, our team maximizes your insurance recovery. We diligently investigate claims, identify all available coverages, and negotiate with insurers to achieve fair settlements. When we need to go to court, we do. We have a track record of successful outcomes in complex coverage disputes.

**Resolving Coverage Disputes:** Our attorneys have a proven track record of success in resolving coverage disputes through negotiation, mediation, arbitration, and litigation. We possess in-depth knowledge of insurance law and procedure, allowing us to develop and implement effective strategies to protect our clients' interests.

**Insurance and Indemnification Counseling:** We provide informed guidance on insurance and indemnification matters arising from contractual relationships. Our attorneys assist clients in drafting and reviewing contracts to ensure adequate insurance protection and allocate risk appropriately. We also handle the insurance aspects of complex corporate transactions, such as mergers, acquisitions, and asset purchases.

Our practice serves a diverse clientele across industries including but not limited to:

- Agriculture and food
- Manufacturing
- Health Care
- Technology
- Financial services
- Construction
- Real estate

- Transportation
- Professional services

## experience

- An agricultural cooperative faced numerous lawsuits alleging liability for the contamination of the United States long-grain rice supply with genetically modified rice. The cooperative's general liability insurer ultimately initiated an arbitration, seeking a no coverage determination based on a cross-pollination exclusion in the cooperative's general and excess liability policies. We represented the cooperative in a lawsuit against its insurer. Through the coverage suit, the cooperative successfully avoided arbitration and won summary judgment with respect to the insurer's duty to defend the cooperative. The case eventually settled confidentially.
- Represented a food manufacturer that suffered a significant interruption of business as well as loss of product when one of the key processes in its manufacturing process mysteriously suffered damage, bringing operations to a halt. Its commercial property insurance insurer denied coverage, contending various policy exclusions applied. The lawsuit arising out of the dispute centered on the cause of loss with a focus on expert testimony. The case settled confidentially.
- Our client, a senior-care management business, faced a complex legal dispute involving tort claims and contract breaches. A major international insurer initially expressed doubt about coverage, citing uncertainty over the policy's scope. By strategically arguing that the tort allegations necessitated immediate coverage, we secured significant financial support for the litigation defense. This allowed us to negotiate a favorable settlement, mitigating risks and securing a substantial sum for our client.
- Represented a physician accused of health care fraud in a complex insurance coverage dispute against a major international insurer. The insurer initially denied coverage for defense costs, citing a regulatory wrongful act provision that limited policy benefits. We aggressively litigated this issue, ultimately forcing the insurer to provide the necessary defense funds. Through skillful negotiation and strategic advocacy, we secured a six-figure policy limits settlement during mediation. This outcome was achieved by demonstrating to the insurer that the costs associated with defending the underlying claim, regardless of the application of the regulatory provision, would inevitably exceed policy limits.
- Secured a substantial six-figure settlement for an individual client in a defamation suit against a prominent special interest group. This victory was achieved by strategically leveraging the significant litigation risks against the defendant's insurer. Through a calculated approach, we effectively communicated the potential consequences of trial, ultimately compelling the insurer to authorize a favorable offer of judgment within a few weeks of the scheduled court date.
- Represented a marketing services company in a variety of coverage disputes relating to loss incurred as a result of significant breaches of our client's computer systems. One lawsuit involved our client's claims against its property insurers for property taken through the intrusion. Another suit concerning the costs incurred to restore the systems involved our client's cyber risk insurer and its broke. Significant issues involved, among others, timing and exclusionary provisions in the manuscript cyber risk policies. We resolved these matters through a confidential settlement.
- Represented many policyholders in lawsuits with insurers issuing management liability policies, including suits involving directors' and officers' liability coverage, fiduciary liability coverage, and employment practices liability coverage. The issues involved in these lawsuits have included: the insured v. insured exclusion; the bad acts exclusions; public policy issues relating to the nature of loss; the application of the claims-made scheme and notice; severability provisions; allocation between covered and uncovered claims; reformation; statements made in the policy application; and many more. We have litigated these suits in state and federal courts. Our successes include favorable rulings on dispositive motions, and prevailing with a jury verdict, and prevailing on appeal.
- Successfully defended a client whose aircraft was damaged at a public/private airport. We achieved a favorable summary judgment, invalidating the airport's unenforceable liability and negligence waiver. This pivotal victory stemmed from our argument that, as a public facility, the airport could not contractually absolve itself of negligence. This legal principle, rooted in public policy, undermined the airport's defense and ultimately paved the way for a satisfactory settlement.
- Successfully negotiated, revised, and enhanced indemnity and insurance provisions within a diverse range of agreements. This includes optimizing property management contracts for a prominent firm and aligning risk management strategies for numerous not-for-profit organizations. Additionally, we have successfully drafted comprehensive waiver, release, and indemnity clauses to safeguard client interests in vendor and partner relationships.



## professionals

**john**

John P. Atkins

**john**

John P. Amato

**bill**

Bill R. Bay

**david**

David L. Coffman

**matthew**

Matthew S. Darrough

**crystal**

Crystal M. Kennedy

**zachary**

Zachary Newman

**richard**

Richard J. Pautler

**peter**

Peter Stark Strassner

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John L. Viola