

## Insurance MVP: Covington's David Goodwin

By **Allison Grande**

Law360, New York (December 08, 2011, 6:24 PM ET) -- While working to obtain insurance coverage for the costs that BP PLC incurred from the massive Deepwater Horizon oil spill and that United HealthCare Corp. spent to resolve a \$350 million consumer class action, David Goodwin of Covington & Burling LLP was also helping Atlantic Richfield Co. finalize a multimillion-dollar recovery stemming from a more than decade-old accident, earning him a place among Law360's Insurance MVPs.

During the past year, Goodwin, a partner in the firm's San Francisco office, has drawn from his more than 25 years of experience in the insurance litigation field to represent corporate policy holders in high-stakes coverage actions.

"2011 has been the busiest year of my career and a big year for our practice, due to a combination of existing engagements and a huge number of coverage claims that may not end up in litigation but present significant issues for our clients," Goodwin told Law360.

His ongoing client relationship with BP has recently yielded a substantial amount of work for Goodwin, whom the oil giant tapped as lead counsel in four insurance coverage actions consolidated in multidistrict litigation pending in Louisiana federal court.

Following the April 2010 explosion and sinking of the Deepwater Horizon rig in the Gulf of Mexico, BP tendered thousands of tort claims to general and marine liability insurers that collectively provided more than \$1.1 billion in insurance coverage to BP and rig owner Transocean Ltd.

The insurers that issued policies with the first \$850 million of coverage brought the current cases against BP to address the scope of insurance coverage available for the accident, which has the potential to be one of the most costly incidents in U.S. history.



David Goodwin

Specifically, the insurers argued that their coverage rights were limited to indemnities that Transocean had given BP in the drilling contract between the two parties — namely, personal injury claims by employees of Transocean and its contractors — while BP counterclaimed that the insurers owed it full coverage up to their limits of liability for the defense and settlement of the thousands of underlying tort claims related to the accident.

Besides handling this massive coverage dispute, Goodwin has also balanced several other significant matters, including the representation of the nation's largest health insurer United HealthCare in its capacity as a policy holder seeking to obtain coverage for the settlement of consumer and government claims.

The coverage case in Minnesota federal court, which involves nine insurance companies, stems from United HealthCare's agreement to pay \$350 million to resolve claims brought by the American Medical Association and others that United HealthCare companies had underpaid professional providers for out-of-network services.

Atlantic Richfield and financial institution The PMI Group Inc. also benefited from Goodwin's expertise in notching agreements with insolvent insurers to wrap up long-running coverage actions.

In Atlantic Richfield's case, the company sought more than \$300 million in lost profits incurred when an oil pipeline in Washington state blew up in May 1999. While most of the claim was settled in 2002, part of the dispute remained pending against an insolvent insurer until 2011, when the final settlement was completed.

Goodwin says one of the keys to his success in representing policy holders is having the ability to grasp the language of the subject policy in order to take positions supported by policy language and case law, as well as having the confidence to tell policy holders when they don't have coverage.

"It's important to understand what your clients' goals are and to not be shy to say there is no coverage when you think there's no coverage," Goodwin said. "It increases your credibility, and if you're credible in court, then a judge will listen to your arguments."

Goodwin also plans to apply this approach outside of the litigation arena in January and April, when the University of Oxford master's and bachelor's degree holder returns to the U.K. for a pair of London arbitrations for chemical company LyondellBasell Industries NV.

Goodwin — who joined the insurance practice at Covington, which he described as "the equivalent of being a reporter for the New York Times," in 2008 after Heller Ehrman LLP dissolved — began delving into insurance law following his graduation from Stanford Law School in 1982.

By the time his practice had become 100 percent focused on insurance law in the fifth year of his legal career, Goodwin had become hooked on the area due to the unique complexities and challenges presented by the subject matter, a passion he still brings to current client matters.

“Insurance is one of the most complicated fields because it's very textual and based on reading contracts, and at the same time it is also very based on the law, so it demands a different approach than other practice areas,” Goodwin said. “But after doing it for so many years, you get a feel for it.”

--Editing by Elizabeth Bowen.

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