

Insurance Group Of The Year: Covington & Burling

By Joe Van Acker

Law360, New York (January 5, 2016, 5:30 PM ET) -- Covington & Burling LLP's insurance practice is one of the largest dedicated to corporate policyholders and the firm threw its weight around in 2015, winning a precedential ruling on Superstorm Sandy's infamous surge and numerous other results that earned the firm a spot among Law360's Practice Groups of the Year.



With a headcount topping 100 and offices stretching from San Francisco to London, Covington & Burling's insurance practice is not only expansive, but well-equipped, counting many of the best in the business among its ranks, and pulling in more than \$20 billion for clients over the years, according to the firm.

The firm capped off 2014 with favorable jury verdict on behalf of KeySpan Gas East Corp. in an environmental cleanup case, and a settlement in The Lincoln Electric Co.'s push for coverage of claims related to fumes from welding equipment.

2015 began with similar success, when Sierra Health Services Inc. rode Covington & Burling's advice to a settlement in the company's quest for defense in a class action over a hepatitis C outbreak, but the firm was just getting warmed up.

In March, a team of three Covington & Burling partners from the firm's D.C. office landed a huge victory on behalf of Public Service Enterprise Group Inc., a New Jersey utility facing huge losses after Superstorm Sandy.

Staring down significant losses themselves, Ace American Insurance Co. and other insurers argued that Sandy's storm surge — a glut of water pushed inland by powerful winds — was a type of flood, a tack that, if successful, would have applied tight policy sublimits.

Instead, a New Jersey court agreed with Covington & Burling, and ruled for the first time that since

storm surges are products of wind, they aren't subject to those sublimits, saving PSEG from footing the bill for about \$500 million in damage.

Mitchell F. Dolin, co-chair of the firm's insurance practice, told Law360 that this hotly contested case, hinging on an issue being decided for the first time, is what this practice group is all about.

"There was this really fundamental question of whether Superstorm Sandy's storm surge should be treated as a flood subject to a sublimit under the language of certain policies," Dolin said. "Ours was the first court and the first ruling to reach the question, and I think that's emblematic of the work we do."

PSEG would go on to settle the case in April, and shortly thereafter, Covington & Burling managed to guide BP PLC to a settlement with Transocean Ltd. in their dispute over a \$750 million insurance policy.

Following 2010's Deepwater Horizon disaster in the Gulf of Mexico, BP argued that it was covered as an additional insured under a policy issued to Transocean, which owned the drilling rig and leased it to BP.

In what appeared to be a finishing blow, the Texas Supreme Court found that BP wasn't covered by Transocean's policy, but the firm petitioned for a rehearing and persuaded the court to order Transocean to respond, ultimately resulting in a settlement in May.

In August, Covington & Burling landed another settlement for a big-name client: Goodyear Tire & Rubber Co., which argued that nothing in its policies from Travelers Indemnity Co. prevented it from lumping scads of asbestos suits into a single claim.

The firm paved the way to the settlement by convincing a Pennsylvania federal judge to grant partial summary judgment on that issue, rejecting Travelers' position that the policies it issued to Goodyear in the 1970s were only triggered when a single claim was valued at more than \$1 million.

With businesses often leaning toward settlements as opposed to protracted litigation, Dolin said that the firm is always eager to land opinions and verdicts for its clients, but places a premium in leaving clients happy.

"We all take a lot of pride in the fact that we're often able to get claims resolved even before coverage lawsuits are filed," Dolin said.

The firm is also involved in a number of major cases that remain ongoing, representing the NFL in its bid for coverage of former players' concussion claims, as well as defending Anschutz Entertainment Group Inc. against wrongful death claims by Michael Jackson's heirs, who've sued the company for hiring the late performer's personal physician.

Aside from its work in the courtroom, Covington & Burling also took steps to bolster its insurance practice in 2015, opening a branch in Los Angeles in March and tapping former Pillsbury Winthrop Shaw Pittman LLP insurance ace Rene Siemens to head the office.

Dolin said that some firms have gone back and forth, representing both insurance companies and policyholders, but Covington & Burling has stuck with the latter.

While that fundamental approach to insurance law has remained a constant, the firm has seen the industry shift over the years, handling everything from mass torts over pharmaceuticals to increasingly

frequent cybersecurity and professional liability claims.

“As the practice has matured, we find ourselves in types of coverage disputes that have been around for a while, but there are always new types of claims and insurance wordings,” Dolin said. “We always try to be on the edge as those new areas emerge.”

--Additional reporting by Jeff Sistrunk, Juan Carlos Rodriguez, Emily Field, Martin Bricketto, Jody Godoy, Kurt Orzeck and Stewart Bishop. Editing by Emily Kokoll.

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