



ATTORNEYS AT LAW

INSURANCE COVERAGE LITIGATION GROUP



NEW YORK

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www.becker.legal

The attorneys in the Becker LLC Insurance Coverage Litigation (the “Group”) have extensive insurance coverage law experience, gathered over decades of collective practice. Many of our partners come from (and were schooled in the traditions of) some of the largest national law firms, and bring with them a commitment to the highest quality work product as associated with national firms.

The size of our firm and our concomitant belief in efficiency and economy in overhead allows us to charge hourly rates below those charged by national firms without sacrificing the quality of work product and legal services.

In this regard, Group members strive to minimize the fees and expenses that clients incur, as well as provide maximum value to our clients, by, and among other things:

- using a firm management model that does not pass big firm overhead on to our clients;
- providing our clients with budgets and fee estimates that reflect cost effective litigation strategies;
- undertaking each client engagement with a commitment to render legal services in compliance with client billing guidelines; and
- conducting webinars and distributing e-news alerts that provide an overview of some of the most important judicial decisions impacting our insurance clients issued over the preceding several months.

The result is a textbook “win-win” for our clients as they receive the highest quality work product and personal attention to rates that allow them to stay within their budget.

As evident on the following pages, our Group members’ experience covers a broad range of issues, such as representing primary insurance companies, excess insurance companies, third-party claim management administrators and organizations in cases involving first and third-party insurance coverage, bad faith claims in federal, state, and bankruptcy courts, and large multi-party declaratory relief and contract-related disputes:

“Group attorneys have extensive insurance coverage law experience, gathered over decades of collective practice.”

- The Group represented an insurance company client in a coverage suit brought by a surveying company insured alleged to have committed various acts of malpractice in the surveying work done by the insured in a multi-million dollar luxury residential high rise development in New York City.
- The Group represented an insurance company client in a suit for coverage brought by a law firm insured sued for legal malpractice in the handling of a personal injury suit.
- The Group represented an insurance company client in a coverage suit brought by a product supply company alleged to have defrauded a third-party of several million dollars.
- The Group prepared an opinion letter under Pennsylvania law as to whether an insurance company client had a duty to defend its insured, a landlord, in a suit brought by a tenant alleging various environmental issues with the leased space.
- The Group represented an insurance company in a multi-million dollar coverage dispute in federal court seeking a defense in very contentious state court proceedings involving a business dispute where charges of fraud and other intentional conduct were alleged.
- The Group represented an insurance company and agent in a matter involving causes of action for breach of contract, breach of fiduciary duty, and bad faith refusal to pay an insurance claim for alleged losses incurred by a policyholder in connection with a flood at a commercial property. This coverage action involved issues relating to a vacancy clause set forth in the commercial general liability insurance policy at issue and whether plaintiff had an insurable interest in the subject property at the time that the loss took place.
- The Group represented an insurance company in an action involving leaking underground fuel tanks which caused contamination to the Delaware River. This action involved issues relating to whether coverage for such contamination was afforded under certain primary and umbrella commercial general liability policies or was the subject of certain pollution related exclusions set forth in the policies.
- The Group represented an insurance company in an action involving a determination of whether an insured had made false representations on an application for a workers' compensation insurance policy and whether premiums due and owing under that policy had been paid on a timely basis.

- The Group represented an insurance company in an action for excess coverage for a physician who worked at a hospital in connection with a state court medical malpractice case.
- The Group represented an insurance company in several actions involving a determination of the nature and scope of coverage afforded under homeowners policies for leaking underground fuel oil tanks.
- The Group represented an insurance company in an action involving a determination of whether an insured's commercial general liability policy afforded coverage for the insured's purchase of a multi-million dollar odor abatement system which the insured contended was required to install at its chemical factory as the result of governmental cleanup and abatement orders.
- The Group represented an insurance company in an action involving a determination of whether the insurance company owed a defense obligation to a policyholder for a patent infringement and unfair competition action brought against the policyholder in a sister court by two foreign food additive manufacturers. The case involved the interpretation of the nature and scope of coverage afforded under the personal injury and advertising injury provisions of various commercial general liability policies issued by the insurance company to the policyholder.
- The Group provided coverage advice to an insurance company relating to the nature and scope of coverage afforded under a professional liability insurance policy to an insured who had been sued for legal malpractice.
- The Group represents health insurance companies across the nation in coverage dispute often involving complex ERISA issues.

The Group is part of the firm's litigation practice. Members of the firm's Litigation Department represent a broad range of clients in state and federal courts, administrative agencies, and various alternative dispute resolution forums. They work closely with clients to establish the objective of the litigation and to develop and execute the legal strategy best suited for success.

When circumstances demand, our Litigation Department has the credentials, experience, and resources required to vigorously litigate a matter through trial. Our attorneys are equally adept at finding creative resolutions to disputes in order to avoid protracted time consuming and expensive litigation.



**Joseph G. Harraka, Jr., Member of the Firm
Chair, Insurance Coverage Litigation Group**

Joseph G. Harraka, Jr., is a member of the firm and practices in the firm's Litigation Department, where he serves as chair of the Insurance Coverage Litigation Group. Mr. Harraka also serves as a member of the firm's executive committee. He received an AV peer review rating for legal ability and ethical standards from Martindale-Hubbell, which is the highest peer-based ranking awarded by Martindale, and was selected for inclusion on the New Jersey Super Lawyers list in the area of Insurance Coverage.

During the course of his over 30 years of practice, Mr. Harraka has been involved in, and has served as lead trial counsel for, civil and business litigation matters in various state, federal, and bankruptcy courts. In addition, he has handled numerous arbitrations and has significant experience in resolving cases without the need for trial through various alternative dispute methods. Mr. Harraka prides himself on being an aggressive advocate for his clients but never losing sight of what makes business sense.

Mr. Harraka has focused his practice on representing insurance companies, financial institutions, real estate developers, contractors, and brokerage firms. His areas of special experience include insurance coverage, construction defect related issues, breach of contract, real estate, fraud, securities, and other complex commercial litigation matters.

Mr. Harraka is a member of the New Jersey State Bar Association, the New York Bar Association, the State Bar of California, and the American Bar Association, and has been active in state and local bar activities. Mr. Harraka is admitted to practice in all state and federal courts in New Jersey, New York, Pennsylvania and California.

Mr. Harraka frequently writes articles for a number of publications and has published various articles in the New Jersey Law Journal and insurance trade industry-related journals.

Mr. Harraka graduated magna cum laude with his B.A. from Seton Hall University. He graduated cum laude, in the top 10 percent of his class, with his J.D. from the University of Notre Dame Law School. At Notre Dame, Mr. Harraka was an academic scholarship recipient and served as executive director of the school's moot court board. Mr. Harraka continued his educational pursuits and graduated magna cum laude with his M.B.A. from the University of Southern California.



**David G. Tomeo, Member of the Firm
Chair, Litigation Department**

David G. Tomeo is a member of the firm and chair of its Litigation Department, where he focuses his practice on complex insurance coverage matters. He regularly handles cases involving general liability coverage disputes, as well as cases concerning errors and omissions, professional liability, and other business coverages. Mr. Tomeo also has extensive experience in health insurance law and regularly handles cases involving interpretation of health insurance contracts. He has a particular expertise in representing medical staffing companies in vicarious liability/respondeat superior claims in medical malpractice cases and handles such suits in New Jersey, New York, and Pennsylvania. He also handles commercial and business actions, as well as bankruptcy litigation. Mr. Tomeo is ranked “AV” by Martindale Hubbell, the highest peer-based ranking awarded by Martindale.

Mr. Tomeo has argued in the Supreme Court of New Jersey and the Appellate Division of the New Jersey Superior Court. His most recent jury trial took place in the Court of Common Pleas, York County, Pennsylvania in March 2017. Mr. Tomeo tried the case from jury selection to conclusion winning a defense verdict. He has handled matters before federal and state trial courts throughout New Jersey and the United States, regulatory bodies, and local governmental entities. Mr. Tomeo also has appeared before a variety of ADR providers, such as the AAA, and has written and spoken on the topic of ADR. He graduated *summa cum laude* from Montclair State University and received his J.D. *cum laude* from Seton Hall University.

Mr. Tomeo is a frequent author and speaker on topics relevant to his areas of practice. By way of example, he was a presenter at an Insurance Industry Roundtable entitled “*Professionalism and Ethical Consideration in Case Management*” held in East Rutherford, New Jersey, and Chicago, Illinois. Mr. Tomeo specifically addressed the issue of ethical consideration in witness interviews and preparation of witnesses for depositions and trial.

Selected Publications and Panels

- *New Jersey Supreme Court Allows Injured Party to Recover Counsel Fees Incurred in Declaratory Judgment Action Even Though Insured was Exonerated in Jury Trial* - November 2015

David G. Tomeo, cont'd...

Selected Publications and Panels cont'd...

- *Seventh Circuit Upholds Denial Of Professional Liability Coverage In The Absence Of Judgment Which Insured Was 'Legally Obligated To Pay'* - DRI, February 2014
- *"Directors & Officers Insurance Coverage: Half Full or Half Empty?"* - Metropolitan Corporate Counsel
- *"Appellate Division Expands Definition of Physical Damages Under First Party Insurance Policy" - Claim Denied*
- *"United States Supreme Court Decides Role of Court and Arbitrator in Challenges to Validity of Contracts Containing Arbitration Clauses"* - Metropolitan Corporate Counsel
- AEGIS Claims Roundtable Seminar, *"Professionalism and Ethical Consideration in Case Management"* - Panelist



**Michael E. Holzapfel, Member of the Firm
Litigation Department**

Michael E. Holzapfel is a member of the firm and practices in the firm's Litigation Department, where he specializes in the fields of healthcare insurance, construction and real estate, and general corporate litigation. With over 15 years of experience, Mr. Holzapfel has represented clients ranging from Fortune 500 companies to closely-held family businesses and sole proprietorships. He has served as lead and local counsel in numerous cases before the state and federal courts at all levels throughout New Jersey. On numerous occasions since being admitted to the bar in 2002, Mr. Holzapfel has been selected for inclusion on the Super Lawyers New Jersey Rising Stars list, and in 2016 was selected for inclusion in the Best Lawyers in America in the field of Construction Litigation.

Mr. Holzapfel's clients over the years have included health insurance companies, real estate development firms, large and mid-size general contractors and subcontractors, banks and private equity lenders, and general liability insurers. He has written articles for various legal and trade publications, and has been a featured speaker at industry-specific seminars. In addition, Mr. Holzapfel is a Fellow of the American Bar Association as well as a member of the New Jersey State Bar Association and the Monmouth County Bar Association. He also sits on various municipal boards and committees.

Mr. Holzapfel has spent his entire career in private practice with Becker LLC, which he joined in 2003 following completion of a judicial clerkship with the Honorable Lawrence M. Lawson (retired), the former Assignment Judge of Monmouth County, New Jersey. Mr. Holzapfel received his undergraduate degree from the College of the Holy Cross and his law degree from The Catholic University of America, Columbus School of Law, where he was an Associate Editor of the Journal of Contemporary Health and Law Policy.

Publications and Speaking Events

- *Third Circuit Resolves District Court Conflict On ERISA Standing-By-Assignment, But Questions Remain* - November 2015
- *Third Circuit Sides With Out-of-Network Providers on ERISA Standing, But Holding Narrow* - November 2015

Michael E. Holzapfel, cont'd...

Publications and Speaking Events cont'd...

- Appellate Division “Flips” Allegations That Consumer Fraud Act Applies to Ambiguous MLS Description of Foreclosed Real Estate - Spring 2014
- Commercial Loan, Residential Collateral – Does My Prepayment Clause Apply? - Spring 2014
- *Shifting Risk of Loss Represents Key to Drafting Enforceable Pay-if-Paid Provisions* - Commercial Builder/Architect, Spring 2004 (co-author)
- *New Ammunition for Defending Consumer Fraud Claims* - New Jersey Lawyer, January, 22, 2007 (co-author)
- *Court Curtails Forum Shopping: New Jersey Supreme Court Rides Statewide Trend* - New Jersey Law Journal, February, 25, 2008 (co-author)
- *Contractors Fall Subject to Consumer Fraud Act* - Real Estate Weekly, April, 30, 2008
- Symposium, *Contractual Safeguards from the Contractor’s Perspective* - September 2008
- Law of Construction Defects and Failures, Half Moon Seminars, October 2010 (contributing author and featured speaker)

Representative Cases

- *Ivans v. Plaza Nissan Ford, Inc.*, 2007 W.L. 1284936 (App. Div. 2007)
- *ICU Investigations, Inc. v. Simonik Moving & Storage, Inc.*, 2009 W.L. 2475225 (App. Div. 2009)
- *Teicher American Communities at the Majestic, LLC v. City of Asbury Park*, 2011 W.L. 6050 (App. Div. 2010)
- *Dalrymple v. Planning Bd. of Tp. of Lakewood*, 2011 W.L. 2802831 (App. Div. 2011)

Firm Profile

Becker LLC is a premier mid-market firm with offices in New York, New Jersey, Philadelphia and California. The firm provides the complete spectrum of legal services from litigation, transactional, labor and employment, and bankruptcy law counseling, to intellectual property, real estate and construction law-related advice. Our size and regional footprint allows us to provide sophisticated services in a manner not only focused on results, but also on our client's return on their investment.

Our mission is to be a trusted advisor and deliver exceptional value to our clients. We define value as not just providing sophisticated, high quality legal advice, but as delivering business advice that assists our clients to improve their performance and meet their goals. We accomplish our mission by: understanding our clients' businesses and industries; providing holistic advice and advanced thought that allows our clients to implement industry leading best practices; enhancing our clients' industry and client relationships; and sharing our clients' values.

For more information, call us at (973) 422-1100 or visit us on the web: www.becker.legal

Disclaimer

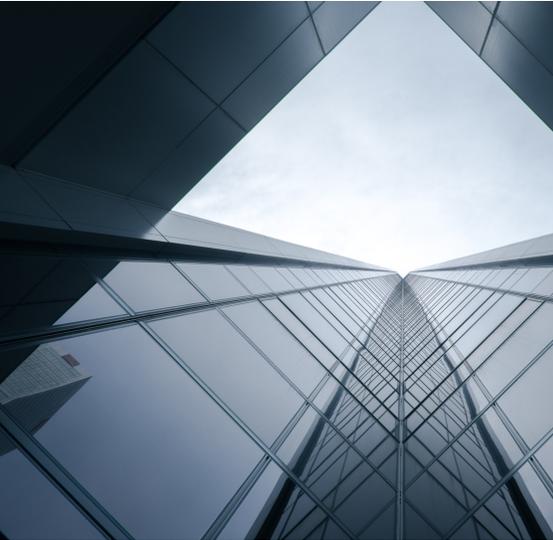
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*Martindale-Hubbell is the facilitator of a peer review rating process. Ratings reflect the anonymous opinions of members of the Bar and the Judiciary. Martindale-Hubbell Peer Review Ratings fall into two categories—legal ability and general ethical standards.

No aspect of this advertisement has been approved by the Supreme Court of New Jersey.



ATTORNEYS AT LAW



Our offices are strategically located at the heart of the metro areas with easy access to all cities in the Northeast corridor...

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