

Insurance Group Of The Year: K&L Gates

By Jody Godoy

Law360, New York (January 6, 2016, 8:29 PM ET) -- Attorneys at K&L Gates LLP's exclusively policyholder-focused practice won a precedential ruling in Pennsylvania Supreme Court that made it easier for policyholders to settle cases over the objections of inflexible insurers, cementing the group's place among Law360's Insurance Practice Groups of the Year.



The ruling in July overturned a win for nuclear industry insurers and reinstated the original judgment the firm secured for BWX Technologies Inc. and Atlantic Richfield Co. in an \$80 million insurance dispute with American Nuclear Insurers in 2011. But it also was a boon for policyholders at large, as it lowered the bar for insureds to settle a case without an insurer's blessing.

The state high court ruled that when an insurer defending a policyholder under a reservation of its rights refuses to settle a case, the policyholder can argue the insurer breached its duty if the deal was, in the court's words, "fair, reasonable, and non-collusive."

David McGonigle, a partner who co-leads the practice from the firm's Pittsburgh office, called the ruling "an extraordinarily significant decision" that "solidified the law for policyholders."

After winning a jury verdict in favor of BWX and ARCO in 2011, K&L Gates lost an intermediate appeal, a turnaround that saw the opposing firm, Simpson Thacher & Bartlett LLP, named one of Law360's Insurance Practice Groups in 2013.

Undaunted, the group brought their case to the state's top court and won resolution of the nearly 20-year-old dispute.

"Hanging in there, pursuing and prevailing in the final appellate stage after an intermediate appellate loss is reflective of the zeal, energy and effort we put forth in these and all of our matters," McGonigle said.

This kind of staunch advocacy on the part of policyholders has been key to the practice since its start more than three decades ago, according to the partner. In 1997, lawyers at the firm literally wrote the book on legal considerations for policyholders, the "Policyholder's Guide to the Law of Insurance Coverage," a tome they update each year.

“Our exclusive focus on policyholder-side work means the policyholder can be sure they have a free from conflict and totally focused representation,” McGonigle said.

That dedication was also on display in January of last year when the firm brokered a \$398 million global settlement for policyholders Ashland Inc. and Hercules Inc. in an asbestos claim coverage dispute with Underwriters at Lloyds, AIG insurers and others. The settlement put to rest lawsuits against Berkshire Hathaway the firm had filed on the companies' behalf in Kentucky state court over claim delays and reductions.

In another, ongoing matter related to asbestos coverage, K&L Gates is representing materials manufacturer PPG Industries Inc. in multi-billion dollar settlements in an affiliate's bankruptcy.

In August, the firm fended off the latest post-confirmation challenge to the \$3 billion Chapter 11 plan in a Pennsylvania federal court. The plan includes a \$1.7 billion mediated settlement of PPG's adversary proceeding involving dozens of insurers. The case is currently before the Third Circuit.

With nearly 100 attorneys at offices in Europe, the Asia-Pacific region and the Middle East, the practice group has recently started to package its services as an integrated approach to companies' international insurance law needs. The group's other co-leader, partner Jane Harte-Lovelace, is based in London.

The firm wielded its international reach this year in representing DuPont in a dispute with Bermuda-based insurers over coverage for product liability claims over the company's herbicide that top DuPont's \$700 million in policy limits.

The job has required mediations in Canada, the U.S. and Bermuda and three arbitrations in London. Last year, K&L Gates attorneys resolved two of those mediations and reached settlements with some of the reinsurers on DuPont's behalf.

The insurance group has also been an active player in the firm's mergers and acquisitions work, both in the U.S. and abroad. In December, an insurance partner in London was part of a K&L Gates team that facilitated auto parts maker LKQ Corp.'s \$1.1 billion acquisition of European parts distributor Rhiag-Inter Auto Parts Italia S.p.a.

--Editing by Emily Kokoll.

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