

Insurance Recovery for Mass Tort Claims



King & Spalding has a long history of successfully representing policyholders in pursuing recovery for losses incurred in mass tort bodily injury and property damage claims. We have handled coverage matters for clients facing hundreds, thousands, and even hundreds of thousands of claimants in a broad range of mass tort settings ranging from asbestos and silica to environmental damage to food products. These liabilities can threaten the existence of large and profitable companies, and even those that survive frequently suffer dramatic losses. King & Spalding has developed proven, cost-effective strategies to help clients minimize losses and maximize insurance recovery.

While we believe it is imperative that policyholders engage legal counsel quickly when faced with potential liabilities arising from mass tort claims, we recognize that it is usually in the best interest of every policyholder to obtain a fair insurance recovery amicably and without litigation, if at all possible. Our goal at the outset is to facilitate an amicable resolution by working behind the scenes, advising the policyholder on legal issues, and alerting the policyholder to the numerous pitfalls that can surprise a business facing claims that implicate multiple layers of insurance policies spread over as much as forty years or more of its historic liability insurance program.

When an amicable resolution is not possible, King & Spalding's insurance recovery team is prepared to pursue the maximum recovery to the full extent justified by the facts and the law. We have recovered billions of dollars for policyholders for bodily injury and property damage claims in trials, arbitrations, appraisals, mediations, and settlements in jurisdictions around the globe.

“They’re more strategic – not the traditional ‘throw everything at it turn over every stone’ approach.”

– King & Spalding client



Our Approach

King & Spalding represents policyholders—not insurance companies—in insurance recovery matters, so we do not have the business or ethical conflicts of some firms. Our exclusive focus on policyholder representation gives us the ability to fight without reservation to seek the maximum recovery for clients provided by their insurance policies.

As lawyers specializing in insurance recovery, we analyze your insurance program to identify potential pitfalls and target additional sources of recovery. Our familiarity with insurance law allows us to interpret complex policy provisions and formulate appropriate strategies to achieve a quick and full recovery. Our relationships with experienced insurance loss consultants and experts in various specialties such as claims handling, underwriting, and financial analysis allow us to assist in assembling the ideal team to pursue insurance recovery efficiently, effectively, and aggressively.

We recognize that, while insurance recovery is important and sometimes crucial to a company’s survival, the insurance adjustment is often just one element of the complex job of business recovery and crisis management. We coordinate the insurance recovery with the company’s ongoing needs to conduct its business, communicate with employees and customers, and deal with investors and regulators.

Representative Matters

- Representing a **former manufacturer of asbestos-containing products** in litigation against numerous primary and excess general liability insurers for coverage related to underlying asbestos-related bodily injury claims. After several trials of discrete issues and several orders on partial summary judgment motions, all in favor of the policyholder, we obtained judgments against or settlements with all of the primary insurers and several excess insurers in amounts in excess of \$200 million. We also obtained summary judgment in favor of the policyholder for more than \$27.8 million, plus prejudgment interest, for unreimbursed defense costs. The result has been coverage for substantially all defense and indemnity costs for all asbestos claims.
- Represented the **former parent of a company** in litigation involving insurance coverage for several hundred thousand asbestos-related claims against the former subsidiary. The trial court entered final judgment declaring, among other things, that each insurer whose policy is triggered is jointly and severally liable for the full amount of the cost to defend and indemnify any covered asbestos claim and, in order to trigger an excess insurance policy, the policyholder need only vertically exhaust the underlying limits in the same policy year. As a result of the judgment and prejudgment settlements, the costs for the asbestos lawsuits are expected to be fully reimbursed by insurers for many years into the future.
- Represented **Monsanto** in one of the largest environmental insurance coverage cases in the U.S., which involved multiple trial phases and a ruling from the Delaware Supreme Court that each insurer whose policy is triggered is jointly and severally liable for the full amount of the cost to defend and indemnify the policyholder. The matter resulted in substantial settlements paid to Monsanto.
- Representing **Cabot Corporation** in insurance coverage litigation to recover costs in connection with environmental cleanup at various sites around the country. The matter has resulted in substantial settlements paid to Cabot.