STEPTOE & JOHNSON PLLC

FIRST LOOK

Issues and Developments in Insurance Law

FIRST LOOK AT EMERGING RISKS | JULY 2022

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FIRST LOOK

EMERGING RISKS

BY: GREG JACKSON

Change is a constant in the world today. This is particularly true of the past two tumultuous years, which saw a worldwide pandemic that impacted nearly every aspect of everyday life. Rapidly advancing technology and third-party investment in litigation combined with the pandemic have created new risks and advanced the growth of other risks. Over the next few years, insurers must recognize and be prepared to tackle these emerging risks. This article examines several of the most pressing challenges carriers can expect to face in the future.

Increased Risk of Future Pandemics

A study published in the Proceedings of the National Academy of Sciences found large pandemics are more likely in the future.[1] In particular, someone born in the year 2000 had a 38% chance of experiencing a pandemic by now.[2] The study predicts that the probability of future pandemics is growing.[3] This may be due to a change in perceptions of pandemic risks and expectations. Recent concerns raised by the World Health Organization about the spread of monkeypox illustrates what could be considered new attitudes toward pandemic risk.[4] As of May 24, 131 cases of monkeypox were confirmed and 106 suspected cases have been reported since May 7.[5] A shift in concern may result in additional pandemics in the future, as the public is more apt to accept government measures to protect against the spread of illnesses. Despite the limited success of business interruption claims and litigation, another pandemic can be expected to bring further lost revenue or possibly other claims. The increased risk supports investing in changes to policy language to help clarify the extent of coverage in the case of another pandemic.

Greater Digitization After COVID-19 Pandemic Presents Unique Problems

The COVID-19 pandemic has produced several shifts, creating additional challenges for the insurance industry. The closure of businesses shifted numerous workforces to remote and virtual workspaces, with 70% of full-time workers working from home.[6] A survey of American professionals found that, due to the pandemic, 28% expected to be fully remote by 2026 — up from 22.9% in a November 2020 survey.[7] Moreover, estimates from Global Workplace Analytics indicate 56% of W-2 workers could work from home if permitted.[8] As discussed below, the number and expense of cybersecurity breaches have also increased over the past few years and are expected to continue in the future.

Additionally, the digitization of the workplace has also increased consumer appetite for remote access to services. For example, a U.S. Department of Health & Human Services study shows a 63-fold increase in telehealth use by Medicare recipients in 2020 — increasing from 840,000 visits in 2019 to 57 million.[9] In 2022, the global telemedicine market is projected to reach $52.3 billion.[10] While professional liability claims arising out of telehealth visits remain unexpectedly

low, the growth in that sector predicts increased claims in the future.[11] This may lead to some coverage disputes as traditional medical malpractice policies may limit coverage for virtual medical services.[12] Coverage may also be at issue to the extent the medical provider is publishing medical advice or, as patients in remote areas or other countries seek telehealth, by a policy's coverage area.[13] For instance, a patient in remote Alaska may seek a specialty offered in another state or a patient traveling abroad may seek treatment from their primary care physician at home. At least one carrier, Beazley, now offers a "Virtual Care" policy for medical providers engaged in telemedicine.[14] Liability claims and available coverages can be expected to develop rapidly in the near future.

Insureds are also expecting increased digitization from insurers. A J.D. Power study found that customer satisfaction with the digital offerings by carriers did not improve in 2021.[15] Due partially to accelerated expectations from consumers, the digital experience offered by insurers is not keeping pace with the desires of insureds.[16] The study found that consumers primarily desire the ability to easily complete tasks, including complex ones, digitally.[17] In particular, consumers desire the ability to request a quote, research policy information, add drivers or vehicles, or view other policy information, but insurers are falling below expectations.[18] However, insurer app users have reported increased satisfaction among consumers who identified as tech savvy — users increased 26% in 2021.[19] Insurer digitization is anticipated to be the new battleground for attracting new consumers in the years to come. Further, the success of virtual options on the claims side can be expected to impact exposure and the expense of adjusting claims.

Cybersecurity Breaches

Cybersecurity Ventures estimates the annual cost of ransomware attacks will reach $265 billion by 2031.[20] Over the past decade, data breaches and other cybersecurity failures have resulted in significant exposure. In 2017, for instance, a cyberattack, using a piece of malware called NotPetya and initially targeting entities in Ukraine, cost an estimated $10 billion.[21] In 2021, JBS, the world's largest meat processor, paid an $11 million ransom to regain control of its computer systems.[22] Similarly, CNA, one of the largest insurance firms in the United States, ceased trading for a short period after it suffered a cyberattack.[23] It resumed operations after paying a $40 million ransom.[24] The Colonial Pipeline suffered an attack in 2021 that halted its operation and caused a short-term energy crisis in the southeastern United States.[25] (The FBI traced and recovered a significant amount of the cryptocurrency used to pay the ransom.) Data breaches may also result in third-party claims: In July 2020, Yahoo settled a class action data breach lawsuit for $117.5 million.[26]

While corporate cyberattacks increased by 50% in 2021, large corporations are not the only targets.[27] Attacks in the health care and education sectors increased by over 70%. However, nearly 43% of cyberattacks focused on small to midsized businesses, of which just 14% are prepared to defend themselves.[28] Moreover, the average ransomware payment climbed to $570,000 in the first half of 2021.[29] It is estimated that just 83% of small and midsized businesses are financially prepared to recover from a cyberattack.[30] Consequently, coverage litigation for cybersecurity breaches — under traditional and newly developed insurance policies — can be expected to increase as businesses that are less well equipped to address the expense of a cyberattack seek protection. Moreover, as businesses move toward increased remote work in response to the COVID-19 pandemic, the risk of a cybersecurity breach will only increase.

Traditional policies, such as commercial general liability policies, may not provide the coverage insureds seek. In some jurisdictions, CGL Coverage B, personal and advertising injury, has been held to not provide coverage, while other jurisdictions have concluded insurers have an obligation of coverage under the provision.[31] In 2014, the Insurance Services Office introduced endorsements directed toward excluding personal or advertising injury coverage in the case of data breaches.[32] Other courts have ruled that commercial property coverage does not apply because data is not tangible property.[33]

As courts have abrogated coverage under traditional policies and the threat of cyberattacks has grown, new cyber liability coverages and endorsements have been developed to specifically address cybersecurity points of risk. Network security coverage, for example, is designed to protect businesses in the event of a network security failure.[34] This may provide coverage for data breaches, malware attacks, ransomware, or even compromised email. Privacy liability may provide a defense and indemnification for claims against a company arising out of a data breach.[35] Some carriers offer network business interruption, which may cover lost revenue, repair expense, and extra costs, should a business's network or the network of a provider go down and prevent operation of the business.[36] Still other policies may include errors and omissions coverage designed specifically for cybersecurity risks.[37]

Coverage under these new endorsements may be limited. Some endorsements provide coverage on a "per occurrence" basis, which may expand or restrict coverage depending on whether a series of successful cyberattacks is considered a single occurrence or several occurrences.[38] Similarly, while multiple endorsements may often afford coverage for a cybersecurity breach, the endorsement or policy may include an anti-stacking provision that prevents the insured from stacking the applicable endorsements to expand the available limits of coverage.[39] Alternatively, some policy endorsements may specify an applicable sublimit below other limits in the policy. For example, Lloyd's of London claimed the credit card fraud endorsement to the policy it issued to New Monteleone Hotel had a $200,000 sublimit after the hotel was hit by a cyberattack.[40] Importantly, the coverages may be limited to first-party claims and not provide any defense or indemnification protection from third-party claims.[41]

Both insureds and insurers can expect continued development of the available coverages as insureds seek protection from the growing threat of rapidly changing cyberattack tactics. Further, the increasing volume of cyberattacks indicates more cybersecurity claims under traditional policies, so developing endorsements and new coverages should be anticipated. In turn, more litigation of the coverage of cybersecurity breaches can also be expected.

Growth in Litigation Funding May Increase Litigation Expense

In 2021, litigation funding increased by 11%, with $2.8 billion being committed to new deals.[42] Litigation funders now manage $12.4 billion in assets.[43] Third-party litigation funding has been estimated to produce internal rates of return from 25% upward in recent years.[44] This return is greater than that of other risky asset classes, including venture capital investments.[45] It follows that litigation funding can be expected to grow in the near future.[46] The funding incentivizes litigants to file more lawsuits and prolong litigation. This translates, according to the Swiss Re Institute, into more cases, longer cases, higher awards, and greater legal expense, which all in turn increase claim costs for

insurers.[47] Insurers should anticipate more prolonged litigation as third-party funding continues to become more mainstream and will need to adjust underwriting accordingly.

There are numerous new and growing risks that insurance companies will need to take on over the next several years. In particular, the changes highlighted above are shifting and often expanding, exposing and creating new coverage issues while also necessitating innovation to keep policyholders satisfied. The carriers that look to the future and take steps today to better position themselves for tomorrow will be best aligned to thrive as they take on these new challenges.

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FIRST LOOK

AFTER-EFFECTS OF COVID-19

BY: MICHELLE GASTON

We may not have the flying cars or hoverboards predicted by *Back to the Future II*, but we did get through a global pandemic that no-one could have predicted. Notably, it has been said that the underwriting loss from COVID-19 "will potentially be the largest payout ever in the history of the insurance industry, 'far exceeding' the $50 billion payout from Hurricane Katrina in 2005."[1] "[T]he main issue for insurers is that claims from the pandemic and government shutdowns have come from almost every category of insurance at the same time."[2] Having endured the initial effects of the novel coronavirus (COVID-19), insurers are confronted with preparing for what comes next. According to commentators, "[t]he most significant change may be in the structure and relationship between businesses and the protection products they are seeking from the insurance industry. It may mean the insurance industry creates a close risk partnership with their policyholders, acting as risk advisers rather than simply writing a check after the event."[3] This article summarizes some types of those post-pandemic risks.

Vaccine-Related

"The Countermeasures Injury Compensation Program (CICP) provides compensation for covered serious injuries or deaths that, based on compelling, reliable, valid, medical and scientific evidence, are found to be directly caused by the administration or use of a covered countermeasure or are determined to meet the requirements of a countermeasure injury table."[4] As of May 1, 2022, 5,033 CICP claims alleged injuries/deaths from COVID-19 vaccines and 2,997 claims alleged injuries/deaths from other COVID-19 countermeasures.[5] One article, published on October 19, 2021, reported that, as of that date, CICP had "decided only two [COVID vaccine] cases, one involving swelling of the tongue and throat following" injection and "the other alleging long-lasting, severe shoulder pain", but in both instances the claimants were "denied compensation."[6]

Vaccine-related claims were originally only dealt with by the Vaccine Injury Compensation Program, but "[i]n March 2020, then Health and Human Services secretary Alex Azar issued a declaration under the Public Readiness and Emergency Preparedness (PREP) Act of 2005 providing liability immunity for medical countermeasures related to the novel coronavirus. Injury claims would be handled by the Countermeasures Injury Compensation Program, which is run by the Health Resources and Services Administration . . . ."[7]

Given that COVID vaccine-caused injury or death claims are directed to a government program, the types of cases seen in court are limited. Litigated matters typically involve vaccine-mandate challenges[8], prisoners seeking compassionate release[9], and various employment-related issues.[10] Workers' Compensation issues related to COVID and the COVID vaccine are also at the forefront and will be discussed hereafter.

Workers' Compensation

"Workers' compensation premium is sensitive to changes in employment and payroll, and pandemic-related business closures have affected WC losses, says the NCCI."[11] Nevertheless, "the workers' compensation insurance market will post strong profits for 2020", "a certain bright light", but "there is uncertainty over how COVID will continue to affect U.S. employers in 2021 and beyond."[12] According to the National Council on Compensation Insurance (NCCI), workers' compensation losses, excluding self-insureds, in jurisdictions where NCCI provides rate-making services, were $260 million in Accident Year 2020 and "have the potential to ultimately result in WC losses exceeding $500 million over the entire duration of the pandemic".[13] According to NCCI analysis, "[t]here were no significant patterns observed. . . . This may be due to the individual handling of business closures, industry mix, policy enforcement, and/or the introduction of state-level presumption legislation to manage the effect of the pandemic. The lack of trend may not be surprising since the COVID-19 pandemic impacted individual states differently and at varying times."[14]

The NCCI indicates that "[o]n average, COVID-19 indemnity claims closed more quickly than non-COVID-19 indemnity claims", "[t]he ratio of paid + case losses on COVID-19 claims is lower when compared with that for non-COVID-19 claims", and "[i]n almost every state, the average cost of a COVID-19 claim is lower than that for non-COVID-19 claims."[15] Examples of indemnity-only WC claims include "mild cases where positive tests were not paid through WC, quarantine claims (where covered), and claims where the medical portion was paid by another payor."[16] Indemnity-only claims account for more than 40% of the COVID-19 workers' compensation claims and likely drive the faster claim closure rate.[17]

On January 19, 2021, the West Virginia Insurance Commissioner issued a bulletin stating that "workers' compensation claims for COVID-19 should not be summarily refused, denied or rejected outright due to the nature of the injury alone without proper investigation."[18] Commissioner Dodrill cautioned that "employers may not advise employees that they cannot file workers' compensation claims for COVID-19 and/or threaten to retaliate or discriminate against employees who do file workers' compensation claims for COVID-19."[19] Rather, "[w]hen a workers' compensation claim for COVID-19 is filed, the insurer or self-insured employer shall properly investigate the claim and issue a timely written decision on compensability."[20] Commissioner Dodrill noted, however, that "[i]t is not likely that every workers' compensation claim for COVID-19 will be ruled compensable after investigation."[21] Additionally, the NCCI has indicated that "[v]accine rollouts and the mandatory use of personal protective equipment in the workforce are expected to result in a significant reduction in the virus infection rate among workers."[22]

Please note that not every work-related injury claim is preempted by workers' compensation. For example, in *See's Candies, Inc. v. Superior Court of California for the County of Los Angeles*, 288 Cal.Rptr.3d 66, 73 Cal.App.5th 66 (2021), an employee "contracted COVID-19 at work", her husband subsequently contracted the disease from her, and the employee's husband passed away. In the subsequent wrongful death action brought by the employee and her children, the employer sought the dismissal of the case in accordance with workers' compensation exclusivity. According to the employer, the case was one of "derivative injury", because the decedent's illness "would not have occurred but for" the decedent's wife "contracting the virus at work and transmitting it to him".[23] The Court disagreed, noting that

a derivative injury would be for losses arising from a disabling or lethal injury to the employee, for injuries arising out of the treatment of an industrial injury, or for injuries incurred in the course of the workers' compensation claims process.[24]

Cybersecurity Related to Working at Home

A UK survey indicated that 47% of organizations will afford employees a choice of working remotely post-pandemic, and 82% indicated that employees could work from home at least one day per week.[25] As commentators note, "[w]e are far more vulnerable to cyber attacks without the security protections that office systems afford us – such as firewalls and blacklisted IP addresses – and increased reliance on technology."[26] These risks are evolving when employers are already "struggling to manage remote workers' use of phones and other mobile devices."[27] Also, "[t]hese blurred lines between personal and professional life increase the risk of sensitive information falling into an insecure environment."[28]

Critically, "[h]acking during the COVID-19 pandemic has spiked"; "The FBI has reported that the number of complaints reaching its cybersecurity complaints hotline has skyrocketed to around 4,000 per day, a 400% increase in filings since 2019."[29] Also increasing is the number of ransomware attacks. "By the middle of last year, the number of ransomware attacks was up more than 150 percent over the entirety of 2020. And this has had direct implications for the insurance industry: The uptick in attacks — and payouts — has meant steeper losses for insurers and dulled their appetites for this emerging and often volatile class of business."[30]

A recent decision from New Jersey is telling. In *Merck & Co., Inc. v. Ace American Ins. Co.*, No. UNN – L – 2682-18 (N.J. Jan. 13, 2022), *Merck & Co.* sought to recover $1.4 billion, the cost of loss caused by production outage, costs to hire IT experts, and costs of buying new equipment to replace all affected systems, from its property insurer (not cyber-insurer) following a cyberattack. At issue was the "Notpetya" malware the insurers maintained was an instrument of the Russian government.[31] The insurers raised the "hostile/war-like action" exclusion as a coverage defense, but the Court found the exclusion inapplicable, and noted that the insurer was aware of a potential cyber-attack but did not change the language of the exclusion or put its insured on notice that such losses were excluded.[32]

The insurance industry is also a significant source of cyber-attacks. Commentators have noted that "20% of the top 99 insurance carriers have a high rate of vulnerability to ransomware. In addition, the frequency of software supply chain attacks have been sharply on the rise, as the rate of hacks have increased by 300% in the last year alone."[33] In short, insurers must have a heightened awareness of cybersecurity risks, particularly in a post-pandemic world.

The foregoing represents a sampling of the types of claims seen in the post-pandemic world. Insurance carriers would be prudent to understand the types of claims that are emerging after COVID, as well as the typical way those claims are handled by courts.

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CLIMATE CHANGE CONSIDERATIONS FOR INSURERS

BY: ASHLEY V. FAULKNER

Past weather data or a Farmers' Almanac is not enough to predict property and casualty insurance needs moving forward. As climate change leads to severe weather such as droughts, wildfires, floods, and other natural disasters, insurance companies must continue to adapt to the increased claims and insurance needs. "Because insurance policies are usually renewed annually, insurers are faced with the problem of how to set premiums and what coverage to offer in the coming year. This can be a difficult challenge, given the inability to distinguish between random weather patterns and systematic changes in climate in the short run."[1] Additionally, insurers must also consider the costs related to their insureds' carbon footprint and environmental impact and how this may lead to additional property and casualty claims. "Property losses of all kinds are most likely to rise as the frequency and severity of extreme weather events increase, and there is the potential for much higher commercial liability losses if shareholders and consumers try to hold businesses responsible for changes to the environment."[2] This article will provide background about climate change's impact on insurers' costs and liabilities, discuss weather-related insurance litigation, and offer considerations for property and casualty insurers moving forward.

Emergence of Climate Change in Insurance Claims

In the coming years, scientists expect that extreme weather events will continue to worsen due to climate change.[3] This could include more severe wildfires, stronger hurricanes, droughts, flooding, and extreme temperatures.[4] For example, in 2021, we witnessed heatwaves in the Pacific Northwest and an unprecedented freeze in Texas.[5] As for flooding, the United States has seen the number of five-year rain events increase by 40%.[6] A study found that precipitation changes between 1988 and 2017 contributed $73 billion to flood damages in the United States and concluded that extreme precipitation events will intensify due to climate change.[7] And other projections estimate that annual flooding costs in the United States could increase 26% to $40.6 billion by 2050.[8] These statistics correspond with an increase in climate change-related loss events in the insurance industry.[9]

"Through the property and casualty business line, insurers extend coverage to structures, property and belongings that may become destroyed, damaged, or vandalized, among other things. Over the past two decades, climate change has intensified extreme weather events. For example, in 2020, the U.S. experienced 22 extreme weather and climate-exacerbated disasters that each had losses in excess of $1 billion."[10] Insured losses due to global natural catastrophes reached a high of $81 billion in 2020.[11] During the first half of 2021, $42 billion in losses were covered by the insurance industry — the highest amount in the last 10 years.[12] Hurricane Ida then brought an additional $31 billion to $44 billion in insured losses when it hit the Gulf Coast and flooded areas from Louisiana to New Jersey.[13] Accordingly,

"[c]limate change challenges [insurer] calculations by both increasing the number and severity of weather-related losses and by adding considerable uncertainty as to where and how these losses will develop."[14]

Climate Change-Related Cases

The following cases provide context for how climate change-related issues may arise in insurance litigation, including negligent construction, coverage determinations, and liability for contributing to climate change-related damages.

***Reilley v. Board of Education of County of Marshall*[15]**

In *Reilley*, the Supreme Court of Appeals of West Virginia ruled that the continuing tort doctrine did not apply to extend the statute of limitations for property damage from flooding. Sometime in 1984, Frances Reilley constructed an embankment and a bridge along his property over Little Grave Creek, which became known as Duck Lane. The construction of Duck Lane did not cause any issues until the remnants of Hurricane Ivan passed through the area in 2004 and caused heavy rainfall. For the first time since the construction of Duck Lane, Little Grave Creek overflowed and flooded a school's baseball field. The baseball field flooded again in 2008, 2009, and 2010 — each causing damage. The Board of Education filed suit in 2010. An expert for the Board of Education provided modeling of the creek watershed with and without the bridge and embankment. The Board's expert opined that the flow of the stream had been obstructed, limiting the amount of water the creek could contain and causing the water to leave the creek and ultimately flood the baseball field.

The matter proceeded to a jury trial, and Reilley was found liable for the multiple flooding events. The trial court then granted injunctive relief to the board, requiring the bridge and road to be removed. On appeal, the Supreme Court affirmed the finding of proximate cause, noting there was no dispute that the bridge was in place prior to the first flood event. However, the Supreme Court reversed the circuit court's application of the continuing tort doctrine, finding that each flood was an occasional, intermittent, recurring, and temporary event, and thus damages were time-barred from the first two flood events. This case is significant because it shows that property damage claims related to negligent construction may arise years after the construction due to increased weather events brought on by climate change.[16] However, this case may also serve to reinforce the inapplicability of the continuing tort doctrine and help limit damages exposure related to weather damage.

***Erie Insurance Property & Casualty Company v. Chaber*[17]**

In *Chaber*, the Supreme Court of Appeals of West Virginia ruled that the ensuing or resulting loss clause was clear and unambiguous, providing coverage for loss otherwise covered but not covering an uncovered event itself. In the *Chaber* case, soil and rock slid down a hill and damaged a motorcycle shop, and the shop owners subsequently submitted a claim to their insurer. The insurer denied coverage, concluding the policy excluded damage caused by a landslide, whether naturally occurring or human made. The insurer's expert opined in her report that the damage was caused by a rockfall resulting from seasonal climate change. The West Virginia Supreme Court found that the policy's earth movement exclusion was proper and applicable regardless of the cause of earth movement.[18]

This case is instructive in that while insurance carriers may be able to limit certain climate change-related exposure — such as earth movement — prudent insurers should be conscious of ensuing or resulting loss provisions.

***The AES Corporation v. Steadfast Insurance Company*[19]**

In *AES*, the Supreme Court of Virginia found that the alleged damages related to AES' emissions of carbon dioxide and greenhouse gases were not considered "occurrences" within the meaning of the insurance policy, and thus the insurer did not owe AES a defense. The underlying suit involved a Native American community located on an Alaskan barrier island. The community filed suit against AES and other companies, alleging they damaged the island by causing global warming through greenhouse gas emissions. AES requested Steadfast, its insurer, to provide coverage for the claims. Steadfast provided a defense under a reservation of rights and sought a declaratory judgment that contributions to global warming were not a covered occurrence under the insurance policy. The policy defined an "occurrence" as an accident or an incident that was unexpected. The plaintiffs had pled that AES intentionally emitted tons of carbon dioxide or should have known the impact of its emissions on coastal Alaskan villages. Accordingly, the Virginia Supreme Court found that the alleged loss was not covered under the policy because the plaintiffs did not allege property damage that was the result of a fortuitous event or accident.

This case is noteworthy because it demonstrates judicial handling of climate change liability claims based on the way in which the claim is pled.

Conclusion: Moving Forward

Climate change represents a significant liability for insurance companies in both the third- and first-party contexts. Moving forward, insurers may choose to manage the expected increase in claims and employ initiatives that may limit climate change-related losses. For example, according to a report by McKinsey & Company, "several insurers are incorporating climate-risk considerations in their new-product launches and underwriting processes. Some others have publicly committed to reducing their exposure to carbon-intensive industries by 2030 or 2040."[20] Insurers may seek to adjust premiums based on building designs and building materials — incentivizing the use of materials to decrease risk of damage such as hurricane and wind-reducing windows.[21] In the first-party context, insurers may also encourage future climate change mitigation through discounts for driving hybrid vehicles or installing solar panels.[22] Furthermore, the insurance industry benefits from reduced claims and losses by encouraging policy that reduces the threat of global warming, and "insurers were among the first to adopt public statements on the environment and global warming, and to join business coalitions calling on the federal government to enact legislation to reduce greenhouse gases."[23]

In conclusion, climate change will continue to make a big impact on property and casualty insurance companies, leading to increased claims and coverage needs. By considering the impacts of climate change when drafting policies and working to mitigate the threat, insurance companies can help reduce claims and claim exposure.

Endnotes

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13. *Id.*
14. Joseph MacDougald & Peter Kochenburger, *Insurance and Climate Change*, 47 J. Marshall L. Rev. 719, 730–31 (2013).
15. *Reilley v. Bd. of Educ. of Cnty. of Marshall*, No. 20-0849, 2022 WL 1223233, at *8 (W. Va. Apr. 26, 2022).
16. On appeal, this case did not address the coverage defense of whether the subject flooding events qualified as occurrences under the policy.
17. *Erie Ins. Prop. & Cas. Co. v. Chaber, 239 W. Va. 329, 801 S.E.2d 207, 208 (2017). Steptoe & Johnson PLLC represented Erie in the Chaber litigation.*
18. While, according to the Court, the ensuing loss provision in the relevant policy provided coverage for glass breakage, a matter unchallenged by the insurer, the Court recognized that the insured's estimate for glass repair was in an amount less than the insured's deductible.
19. *AES Corp. v. Steadfast Ins. Co.*, 283 Va. 609, 725 S.E.2d 532 (2012).
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21. Joseph MacDougald & Peter Kochenburger, *supra* note 14.
22. Howard C. Kunreuther & Erwann O. Michel-Kerjan, *supra* note 1.
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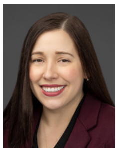

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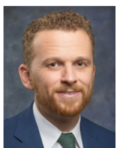

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STEPTOE & JOHNSON PLLC

INSURANCE COMPANY TEAM OVERVIEW

Steptoe & Johnson's Insurance Company Team has more than 100 years of experience providing legal service and advice to the insurance industry. Our attorneys possess a wealth of knowledge and understanding of insurance issues. We are prepared to manage insurance carriers' complex legal issues and defend insurance companies during claim investigations.

REPRESENTATIVE EXPERIENCE

- Prepared insurance coverage opinions
- Developed successful strategies used in federal and state courts to resolve complex insurance claims
- Defended first party cases involving bad faith claims, unfair claim settlement practices, and general first party responsibilities
- Provided advice regarding the regulatory aspects of insurance
- Provided Insurance claim handling training
- Compliance issues, including the Unfair Trade Practices Act
- Investigated fraudulent fire and theft claims, including examinations under oath
- Investigated insurance losses for subrogation potential

HIGHLIGHTS

- **400+** attorneys and other professionals
- **18** offices in Colorado, Kentucky, Ohio, Oklahoma, Pennsylvania, Texas, and West Virginia
- **More than 50** areas of practice
- **90** lawyers recognized in *The Best Lawyers in America®*
- **28** attorneys listed as leaders in their field by Chambers USA
- **Four** Fellows of the American College of Trial Lawyers
- **Six** Fellows of the American College of Labor & Employment Lawyers

400+
Attorneys & Other Professionals

18
Office Locations

50+
Areas of Practice