

CAPABILITIES / LITIGATION

## Insurance

Insurers, rely on us for the efficient, skilled defense of their insureds, balancing the need for appropriately aggressive representation with an ongoing analysis of settlement options.

### OVERVIEW

*"As a result of our experience defending insureds, we have streamlined the process, resulting in the most cost-effective defense possible."*

— Jeffrey Batoff

Obermayer has handled thousands of cases assigned by dozens of insurance companies in all subject matter areas. From premises liability to product liability (including mass tort), employer liability, environmental matters and cyber issues, every case is attended to by experienced attorneys.

Our Insurance attorneys engage directly with the insured as well as with in-house risk managers and third-party administrators. This is consistent with the Obermayer philosophy to keep the insured and claims representatives fully and promptly informed as part of a collegial team approach. We constantly evaluate settlement possibilities and balance risk on a case by case basis, so the insurer can set appropriate reserves for each file and dictate strategy.

### Our Value

Our attorneys are constantly vigilant in finding "lessons learned" from cases to help clients avoid claims in the future. We offer training on a regular basis for the insured's staff (e.g. custodial personnel) so that liability issues are well documented. All too often plaintiffs' counsel are able to "re-invent" where an incident has occurred to bolster a finding of liability. With proper documentation immediately after an incident has occurred, we are better able to defend these cases. And because we have developed forms and written briefs on nearly every issue imaginable, we are able not only to defend cases successfully but also to do so efficiently.

Many firms that provide insurance defense assign the most junior attorneys to the matter to maximize

revenue and realization rates. These firms often use junior attorneys only on defense work, denying them broad litigation exposure. As a full-service firm, we are able to assign attorneys to defense matters who have a broad range of experience with complex litigation, resulting in tasks being handled far more resourcefully.

## Our Clients

Obermayer's insurance defense attorneys provide legal counsel and litigation services to insurance companies and their clients, representing regional and national insurers, insureds and self-insureds to defend against insurance claims. These include:

- Class Action Lawsuits;
- Construction Claims;
- Directors & Officers;
- Employment Practices Liability;
- Environmental;
- Premises Liability;
- Products Liability; and
- Toxic Tort.

Our attorneys find the right expert witnesses for each case. We design discovery to fit the needs of each matter based on forms which have evolved over many decades. We constantly evaluate settlement options keeping in mind the fees for each case, balancing the potential results against the costs, and if a case needs to be tried, we are ready. Plaintiffs' counsel know Obermayer attorneys are fully prepared and willing to bring cases to trial. We believe in a team approach, working with in-house legal teams and the insureds to determine the best strategy for each defense.

Our philosophy uniquely prepares our team to counsel and assist our clients when it is time to make the strategic decisions as to how a case will be handled. Understanding and avoiding unnecessary cost, as well as the risks associated with trial, comes only with experience. At times, trial is the only option, where the issues strike at the heart of a company's character or mission. Oftentimes, settlement is preferred. The settle-don't settle analysis is ongoing. Our attorneys, are able to handle cases in in Pennsylvania, New Jersey, New York and Delaware.

## Our Focus

Obermayer is mindful that the longer a case proceeds, the legal costs are increasing, and that very often at the same time, settlement demands are reduced. Re-examining the settlement posture of cases is all the more important given this shifting dynamic.

We have substantial expertise in representing governmental units, successfully arguing issues of immunity before the Pennsylvania Supreme Court. Our attorneys also seek to find other responsible parties in addition to the insured to reduce the financial exposure of the insurer. This approach is particularly important for “wrap” policies where the defense provided is for a group of insureds. Finding third-party liability on another entity is more difficult but, with careful research, can often still be accomplished.

## EXPERIENCE

- In representing a municipally owned utility, we devised a strategy to overturn a Commonwealth Court ruling which had deprived the client of its right to assert governmental immunity. Through a coordinated effort with the in-house risk manager, we were able to convince the Pennsylvania Supreme Court to overturn the Commonwealth Court holding, re-establishing immunity, including the liability cap. As a result, a number of high-exposure cases were immediately withdrawn.
- We successfully defended the City of Philadelphia, as owner/operator of airports in the City, regarding premises liability claims and co-defendant airline’s cross-claims related to catastrophic injuries sustained by a plaintiff whose work vehicle was caused to roll over due to jet blast from a nearby aircraft. We obtained pre-trial dismissal of all claims and cross-claims.
- We successfully defended the City of Philadelphia in a premises liability claims and co-defendants’ cross-claims related to catastrophic injuries sustained by a plaintiff who fell down exterior stairs on City-owned premises. We obtained pre-trial dismissal of certain claims against the City. We also succeeded in compelling the co-defendant lessee to (a) defend and indemnify the City regarding all remaining claims, and (b) reimburse to the City amounts corresponding to certain incurred defense fees and costs.
- We defended a products liability case on behalf of the Philadelphia International Airport where a US Airways employee had his foot crushed by a passenger jet bridge owned by the airport. The case settled after mediation, with the City contributing nothing toward a significant seven-figure settlement paid by the manufacturer of the jet bridge due in large part to our development of facts establishing that the incident was the result of negligence by others and the employee. We were also able to successfully tender the defense to the airport’s maintenance provider pursuant to the maintenance contract, where our fees were paid by the maintenance contractor’s insurer.

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## RELATED CAPABILITIES

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