



Anthony B. Leuin

PARTNER

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AREAS OF EXPERTISE

Insurance Coverage, Real Estate, Litigation, Wine Industry

Overview

With over 35 years of practice, Mr. Leuin is a senior litigation partner with a broad background in civil disputes of all types, with particular concentration in insurance coverage and real estate. Mr. Leuin's insurance coverage practice is limited to representation of policyholders. He litigates and evaluates coverage under all types of policies, including general liability, directors and officers, errors and omissions, property, surety bonds, and newer products such as cyber liability and mergers and acquisitions policies. Mr. Leuin's background in real estate litigation has included fraud claims, development agreement disputes, construction defect and delay claims, lease disputes, receiverships, and subsidence, earth movement, and inverse condemnation issues. Given the prevalence of arbitration clauses in modern real estate contracts, Mr. Leuin has extensive familiarity with the law and practice governing private arbitration.

Experience

Typical Insurance Coverage Engagements:

Construction industry (CGL Policy). Represented manufacturer of construction parts in litigation in California and Hawaii over insurance for construction defect suits. Underlying claimants sought up to \$500 million in Hawaii state courts. Insurers variously claimed coverage should be determined under less favorable Hawaii law, and that coverage was excluded by the policies' "your product" exclusion. Successfully secured aggressive defense of all claims with insurer funding 100% of costs of defense and settlement.

Construction industry (CGL Policy). Represent start-up engaged in production of "green" modular component buildings sued for providing allegedly defective components. Insurer claims damages occurred before policy inception, and are barred by "your work" and "your product" exclusions of policy. Secured ongoing defense of underlying defect claim.

Chip industry (CGL and Employment Policies). Represent former manufacturer of computer chips in securing insurance coverage for claims alleging former employees and/or their offspring were harmed by exposure to toxic chemicals in the manufacturing process. Insurers asserted various policy exclusions. Secured aggressive insurer-funded defense leading to defense victory in first cases, and insurer-funded settlement of remaining cases.

Wood Products (CGL Policies). Represent former owner of wood products company. Secured proper defense of underlying claim of environmental contamination, despite insurers' assertion of "pollution" exclusion.

Financial Services (E&O Policy). Represent custodian of self-directed pension funds regarding professional liability coverage for customer suits alleging custodian failed to prevent its customers from investing in Ponzi schemes. Caused insurer to fund all defense and settlement costs, and represent custodian with regard to insurer's attempt to seek reimbursement.

Professional Services (EPL Policy). Represent law firm against insurer who failed to fund defense and settlement of harassment and discrimination claim.

Food Industry (CGL Policy). Represent provider of sustainably produced seafood products in seeking defense of false advertising claims.

Retail (CGL and D&O Policies). Represented publicly traded home furnishings retailer in obtaining reimbursement for costs of defense of trademark and trade dress infringement claims.

Pharmaceutical industry (CGL Policy). Represented purchaser of pharmaceutical company sued for alleged breach of acquisition agreement; procured insurance policy limits settlement in light of defamation claim not alleged but potentially embedded in suit.

Pharmaceutical industry (CGL and D&O Policies). Represented developer of new drug in procuring insurance for claims alleging unfair competition and theft of trade secrets.

Financial Services (E&O Policy). Represented investment advisor regarding professional liability coverage for erroneous securities trade.

Real Estate Investment (CGL Policies). Represented national real estate investment firm with regard to its insurers' obligation to defend and settle novel tenant claims.

Real Estate Investment (Employment Practices, D&O and CGL Policies). Represented real estate company and its principal regarding insurance for former co-owner's suit alleging breaches of fiduciary duty and seeking buy out of interest in firm. Successfully secured insurer funding of aggressive defense involving two published appellate decisions, leading to complete defense of all claims.

Construction (CGL Policy). Represented mechanical contractor alleged to have caused explosion and fire at a recycling facility.

Contracting (Employment Practices, Homeowners Policies). Represented owner of regional landscaping business in procuring coverage for harassment claims over defenses that claims preceded policy inception.

Wine industry (Property Policy). Represented numerous wineries in recovering fair valuations of wine lost or damaged in warehouse fire.

Wine industry (Property Policy). Represented winery in recovering fair value of damage to buildings, to wines in barrel, and to library wines lost or damaged in winery fire.

Wine industry (CGL Policy). Represented winery in obtaining insurance coverage for label dispute.

Medical Products (D&O). Represented company sued for securities fraud in dispute over insurer's assertion of "prior litigation" exclusion in D&O policy.

Employment Practices Liability (EPL) Policies. Advised a broad assortment of employers regarding their insurers' obligations under EPL coverages.

Crime Policies. Secured recoveries of losses caused by employee and non-employee forgery and theft for companies ranging from investment advisors to health services providers to sellers of silicon chips.

"Reps and Warranties" Policies. Advised companies ranging from waste management to pharmaceutical regarding insurance coverage for sellers' Representations and Warranties in acquisition agreements.

Typical Real Estate and Construction Litigation Engagements:

San Leandro, California. Represented owner/developer of East Bay commercial buildings in construction defect claims against general contractor.

San Francisco, Marina District. Represented purchasers of interests in luxury apartment building in claims against seller/developer for concealed construction defects.

Receiverships. Represented institutional lender in obtaining receivership remedy for commercial buildings.

Tiburon, California. Represented developer and financiers of Point Tiburon, a 155-unit condominium and commercial development in Tiburon, California. The Point Tiburon Construction Cases involved Judicial Council coordination of a dozen separate lawsuits (including three class actions) brought in two counties, all coordinated in Marin County and resolved after the commencement of trial. We successfully defended homeowner claims exceeding \$20 million; successfully defended a separate \$20 million claim by the general contractor's performance bond surety; and recovered over \$6 million on behalf of our clients.

Fairfield, California. Retained after trial by a general contractor, we caused our client's insurer to satisfy a \$5 million judgment entered against our client as a result of allegedly defective grading and site preparation work.

San Francisco. Represented business owners whose industrial property was damaged by subsidence caused by the City and County of San Francisco's sewer construction project.

Sausalito, California. Represented developer who converted large apartment complex to condominiums, resolved complex homeowners claims, with issues ranging from water intrusion to underwater structural engineering.

San Francisco, Nob Hill. Represented developer of luxury condominiums in defending homeowner claims, including alleged misrepresentation of Homeowners' Association operating budget.

Luxury Residences. Have recovered millions of dollars in construction defect claims on behalf of owners of high-end Bay Area residential properties, such as:

- Tech executive's pervasively defective new home in Los Altos Hills;
- Tech executive's 5,000 square foot addition to his Hillsborough home;
- Investment adviser's unique hillside home and wine cellar in Mill Valley;
- Investment advisor's San Rafael hilltop home
- Luxury residence near Lake Street in San Francisco;
- Napa Valley residence and art studio;
- Sausalito's "Taj Mahal," the largest and most luxurious floating residence on San Francisco Bay.

Landslide/Subsidence Claims. Represented numerous property owners in landslide cases in the North Bay and San Francisco. Have in every case obtained sums sufficient for complete property repair, even where clients' insurance policies specifically excluded damage caused by earth movement.

Condominium dispute. On behalf of the developer of South of Market project, restrained harassing conduct of individual homeowner. Worked in concert with homeowners association to achieve client's objective.

Napa Winery Fire Cases. Represented the owners of a major Napa Valley wine warehouse destroyed by fire. Recovered over \$16 million dollars of insured property loss; successfully defended claims by other wineries and a restaurant whose stored wines were destroyed; and recovered additional sums from the supplier of a defective pressure regulator valve responsible for the fire.

San Francisco Office Lease Dispute. Successfully represented ownership of high rise office building in defending one of the largest landlord-tenant disputes ever tried in San Francisco, in which lessee of nine floors of high-rise office space alleged it was overcharged millions of dollars in operating costs. Tenant recovered nothing.

Tenant Build-Out Claims. Represented East Bay law firm in dispute with landlord over allocation of tenant improvement costs in high-rise building. Represented equipment leasing company in dispute with national landlord over build-out costs.

Publications/Speaking

Mr. Leuin was on a panel of distinguished insurance coverage experts addressing "The Most Important Coverage and Extracontractual Decisions of the Past Year" at the Annual Meeting of the American College of Coverage and

Extracontractual Counsel (ACCEC) on May 12, 2017.

Professional Activities

Mr. Leuin is a Contributing Editor to *The Rutter Group's California Practice Guide: Insurance Litigation*. He is a member of the Litigation Section of the American Bar Association, including its Insurance Coverage Litigation Committee, where he has co-chaired the Construction Litigation sub-committee, and served as Website Managing Editor, and is a frequent speaker at its annual conference. He is also a member of the American Bar Association's Forum on the Construction Industry, and its Dispute Resolution Section.

Education

University of California, Berkeley
A.B. in Political Science (Phi Beta Kappa), 1976

Yale Law School
J.D., 1980

Admissions

California State Bar

All California State Courts

U.S. District Court for the Northern, Eastern and Central Districts of California

Ninth Circuit Court of Appeals

Bankruptcy Court

Accolades

Mr. Leuin is a Fellow in the American College of Coverage Counsel. He carries an "AV" (highest) rating from Martindale Hubbell and has been named a Northern California "Super Lawyer" in Insurance Coverage.

