



Richard C. Mason

Member

Philadelphia, New York

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Richard focuses his practice on representing clients in litigation and arbitration of insurance and reinsurance coverage disputes concerning professional liability claims, as well as property/casualty claims. He has served as lead trial counsel in multiple large disputes that have proceeded to verdict in arbitration.

Richard is former chair of the Alternative Dispute Resolution Committee of the ABA's Tort Trial & Insurance Practice Section, former chair of the ABA's Excess, Surplus Lines, and Reinsurance Committee, and past editor-in-chief of the *Tort & Insurance Law Journal*. He has served as an arbitrator, and as a mediator on numerous occasions, and serves as a Judge *Pro Tem* in the Commerce Court of Philadelphia. He is a member of the Professional Liability Underwriting Society (PLUS).

Richard's insurance coverage background has emphasized complex disputes concerning coverage for professional liability (E&O), Directors & Officers and management liability policies, cyber-risk policies, opioid liability insurance coverage litigation, and environmental and toxic exposures. Richard also litigates and handles appeals of commercial fraud matters and other complex transactional disputes.

Richard's reinsurance experience includes representation of clients in such high-profile disputes as the London Market accident and health reinsurance spiral disputes, the Enron bond insurance coverage dispute, the WorldCom bond default insurance dispute, and multibillion-dollar property reinsurance claims in connection with September 11, 2001, World Trade Center losses. He has particular depth in the life, accident & health, and disability classes of reinsurance.

In 27 years of litigating insurance claims, Richard's clients have never suffered an award of bad faith damages.

Richard earned his undergraduate degree from Loyola University Maryland in 1987 and his law degree (with honors) from the University of Maryland School of Law in 1991.

Experience

Obtained reversal of multi-million dollar jury verdict that had awarded damages to Insured seeking insurance recovery for violations of the Telephone Consumer Protection Act. The New Jersey Appellate Division ruled in favor of client, holding that the Insured had failed to meet its requirement of introducing evidence at trial of actual "property damage" and actual "loss of use of property." *Penn National Ins. Co. v. Group C Communications, Inc.*, __ A.3d __ (N.J. App. Div. 2018).

Represents insurers in opioid coverage litigation proceeding in Boone County, West Virginia. (*AmerisourceBergen v. ACE American Insurance Co., et al*, 17-CV-36)

Obtained judgment on the pleadings in favor of an insurer on a claim under a digital technology "claims made" insurance policy. The court held that a newer claim related back to a claim made prior to the policy period. The court held that, even if the prior claim were not a "but for" cause of the latter claim, the newer claim related back, so long as the two claims shared a common factual nexus. *Ciber, Inc. v. ACE American Ins. Co.*, 16-cv-1189, (D. Colo. 2017).

Practice Areas

- Professional Liability Insurance Coverage
- Appellate
- Casualty & Specialty Lines Coverage
- Insurance Coverage
- Reinsurance

Industry Sectors

- Insurance

Education

- University of Maryland School of Law, J.D., with honors, 1991

Bar Admissions

- New Jersey
- New York
- Pennsylvania

Court Admissions

- U.S. Court of Appeals for the Eighth Circuit
- U.S. Court of Appeals for the Sixth Circuit
- U.S. District Court -- Eastern District of New York
- U.S. District Court -- Eastern District of Pennsylvania
- U.S. District Court -- Middle District of Pennsylvania
- U.S. District Court -- New Jersey
- U.S. District Court -- Southern District of New York

Affiliations

- Professional Liability Underwriting Society (PLUS)
- AIDA Reinsurance and Insurance Arbitration Society
- Alternative Dispute Resolution Committee of the ABA
- American Bar Association
- Excess, Surplus Lines & Reinsurance Committee of ABA
- New Jersey State Bar Association
- New York City Bar Association
- Pennsylvania Bar Association
- Rotary Club International

Awards & Honors

- Who's Who Legal: Insurance & Reinsurance
- Best Lawyers in America 2020

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Obtained summary judgment for an insurer-client denying a \$20 million claim for costs arising from a False Claims Act ("Whistleblower") action against a leading international pharmaceutical industry company; Obtained full affirmance of judgment for client on appeal before Superior Court of Pennsylvania. (*AmerisourceBergen Corp. v ACE American Ins. Co.*, 2545 EDA 2013 (PA Super.))

Obtained arbitration award for insurer against insurance broker for fraud and breach of contract.

Obtained summary judgment for insurer, based upon pollution exclusion, on liability claim brought by energy company whose hydrofracturing ("fracking") operations contaminated well waters. (*Catalyst Energy, Inc. v. ACE America Ins. Co.*, GD 13-016390 (PA C.C.P.))

Obtained summary judgment for an insurer-client regarding a multimillion dollar construction defect claim arising from a massive silo collapse in Trinidad. The U.S. Court of Appeals for the Eighth Circuit upheld the dismissal of all damage for the loss of the silo. (*Lexicon, Inc. v. ACE American Ins. Co.*, 4:09-CV-0067 (E.D. Ark.))

Obtained judgment in favor of excess insurer that denied eight-figure claim of health care institution under claims made policy, despite evidence by insured that it had provided timely notice to primary insurer. Decision affirmed on appeal. (*Lexington Ins. Co. v. Western Pennsylvania Hospital*, Civ. No. 03-1675 (W.D. Pa.))

Retained as appellate counsel and secured ruling by Sixth Circuit Court of Appeals, declaring that insurability of subprime lease bonds was limited to a fraction of the policy limit. (*Commercial Money Center Inc. v. Illinois Union Ins. Co.*, No. 06-3767 (6th Cir.))

Managed all domestic legal aspects of a run-off of a \$600 million block of accident and health reinsurance.

Engaged by an insurance regulator to assist in an examination of large group of insurance companies

Negotiated and drafted commutation structure for a large block of disability reinsurance business

Advised leading domestic reinsurer on administration of portfolio of expatriate health and personal accident insurance.

Won summary judgment in a coverage and bad faith action filed against our client by its insured, an IT consulting company that was hired to implement a new financial management system for the Hawaii Department of Transportation (HDOT). When the system failed to work, HDOT sued the insured for more than \$20 million, for which the insured sought coverage under a series of commercial general liability and umbrella liability policies. In granting our motion for summary judgment, the court agreed that our client owed no duty of coverage because the claims in the underlying lawsuit, for damage to computer software, did not allege "property damage" as that term was defined under the policies at issue.

Retained by an insurer for purposes of appealing an adverse \$5.4 million jury verdict, we convinced the appellate panel to overturn the verdict that a general liability policy had been triggered by thousands of instances of "property damage" resulting from the transmission of junk faxes and the resulting liability under the Telephone Consumer Protection Act (TCPA). Accepting our arguments that the evidence at trial had not shown damage to any class member aside from the one representative who testified, the appellate panel reversed and remanded, reducing the verdict to less than \$1,000.

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