



INSURANCE COVERAGE

The availability of insurance coverage is often a critical aspect of litigation for our clients, whether it is on the plaintiff's side, where the defendant's insurance carrier may be the only potential source of meaningful recovery for losses, or on the defendant's side, where clients may rely on their carrier to provide legal defense costs and, in the worst case, to indemnify losses and/or satisfy any judgment against them.

Diamond McCarthy's litigators have extensive experience on all sides of insurance coverage issues in a wide range of industries. We are frequently called upon to analyze coverage under commercial general liability ("CGL") policies, employment policies, errors and omissions ("E&O") policies and directors and officer ("D&O") policies, among others. We regularly litigate and mediate coverage disputes on behalf of policyholder clients in a wide-ranging number of industries, including construction, real estate and environmental, energy companies, healthcare companies and medical institutions, and ski resorts, to name a few.

Insurance carriers routinely deny coverage and attempt to avoid responsibility under policies, especially when the stakes and losses for policyholders are high. Diamond McCarthy assists its clients at all stages of the process, from ensuring proper notice is provided to carriers to preserve coverage, to negotiating with carriers to ensure adequate funding under duty to defend clauses, to litigating coverage disputes directly against carriers when necessary. Diamond McCarthy routinely litigates the litany of issues and defensive strategies employed by insurance carriers, including bad faith and fraud exceptions, policy exclusions, and attempts to rescind policies after the fact.

Diamond McCarthy currently is actively litigating coverage claims on behalf of several clients in different cases, including a major real estate developer in Colorado, a global construction company, and the largest agricultural cooperative in California. In recent years, on behalf of the victims of corporate fraud, Diamond McCarthy has analyzed insurance coverage on D&O policies in some of the largest national and international fraud and Ponzi scheme cases, including Enron, Parmalat, Bayou Funds, Livent, USA Commercial Mortgage, Syntax-Brilliant, and many others. Our lawyers have also represented policyholders and litigated coverage disputes related to E&O policies arising from major construction and real estate projects, including the construction defect litigation in, perhaps, the largest mixed use real estate development project in the world (MGM City Center in Las Vegas), and have represented large industrial clients such as Foster Wheeler and Congolium in efforts to recover for asbestos losses from major insurance carriers under CGL policies.