

Property Coverage

Some of the most challenging insurance issues over the last 15 years have arisen in the context of first-party property coverage. Wiley has been at the forefront of many of these first-party issues. *The Legal 500 US* praises the firm's "insightful advice" (2015) and "extensive industry knowledge" (2017). Our attorneys have assisted clients in analyzing coverage, assessing damages, resolving claims, litigating disputes, and drafting policy forms and endorsements. We have advised insurers on claims arising out of Superstorm Sandy and other catastrophic events, computer failure, data loss, environmental cleanup, food contamination, and product recall.

Representative matters include the following:

- Assisted a property insurer in litigation regarding first-party property claims in excess of \$500 million caused by Superstorm Sandy. Wiley analyzed adjusters' competing damage assessments; developed arguments on the flood versus named-storm distinction; and addressed factual and legal arguments regarding the applicability of several sublimits, issues of concurrent causation, and factual distinctions regarding designated flood zones. The matter resolved resulting in a \$100 million+ savings to our client.
- Aided insurer in resolving claim for losses resulting from listeria infestation at insured meat product production facility. Claimed losses included loss of work in progress inventory and finished products, business interruption losses, demolition and increased cost of construction expenses, listeria monocytogenes clean up, extra expenses, expediting expenses and food transportation, storage and destruction
- Represented a property insurer as appellate counsel in proceedings before the Florida Supreme Court on certified questions from the Eleventh Circuit concerning a \$4.5 million claim by a condominium developer under a builder's risk policy. The court held that the design defect exclusion in the policy precluded coverage for work undertaken to remediate design errors of the structural engineer for the project and that the policy's sue and labor clause did not afford coverage for risks that were otherwise excluded.
- Assisted in multimillion dollar property claim by service company as a result of destruction of premises. Claimed losses included loss of equipment, business interruption, contingent business interruption, and extra expense.
- Represented an excess property insurer in litigation concerning coverage for a \$200 million+ claimed loss sustained by the lessee of the retail mall at the World Trade Center for its leasehold interest and annual rental income. Issues included the lessee's failure to disclose the property prior to the binding of

coverage; whether the mall qualified as a “newly acquired location” for purposes of time-limited automatic coverage; and whether the policy was void based on the lessee’s misrepresentations during the underwriting process.

- Represented an excess property insurer in connection with the 9/11 attacks on the World Trade Center. Wiley litigated and analyzed numerous issues including the scope of underwriting intent as to the applicable policy form, number of occurrences, and appraisal of the claimed loss.
- Represented a national property insurer in multiple litigated and non-litigated disputes concerning the availability of coverage for hundreds of millions of dollars in claimed Y2K remediation costs. Wiley developed expertise in the history and application of the “sue and labor” clause, which formed the basis for the insureds’ claims.
- Assisted insurers in analyzing and resolving numerous claims resulting from loss of computer data and business interruption loss.
- Aided insurer in analyzing product recall losses by veterinary equipment manufacturer.