

California Appellate Court Reverses *Fuller-Austin* Decision

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Washington, DC—A California appellate court has reversed the May 19, 2003 *Fuller-Austin* decision, significant ruling that will allow insurers to challenge a policyholder's asbestos bankruptcy reorganization plan on several grounds. Wiley Rein & Fielding insurance coverage expert, Laura A. Foggan, who represents the Complex Insurance Claims Litigation Association (CICLA) commented on the reversal in *Business Insurance*, telling the paper, "Considering that more than 60 major asbestos company defendants have filed for bankruptcy and that asbestos-related litigation has spread to more than half of U.S. industries, the reversal of the *Fuller-Austin* decision is 'a major, major deal.' The *Fuller-Austin* reversal, in addition to a handful of recent similar rulings in other cases, 'reinforces that insurers are going to have an opportunity to be heard' on asbestos coverage issues." Ms. Foggan added, "At its most basic level, this ruling confirms that a policyholder's bankruptcy does not expand or contract the terms of an insurance contract. The policyholder, bankrupt or not, is bound by the terms and conditions set forth in the plain language of the insurance contracts it purchased. This concept is fundamental to the insurance contract mechanism and was threatened by the trial court ruling."

WRF's Insurance Practice Group represented our client the Complex Insurance Claims Litigation Association as an *amicus curiae* in this matter.

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