

Edmund M. Kneisel

Retired Partner

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Ed Kneisel represents commercial policyholders regarding a broad range of insurance-related issues, ranging from policy review and analysis to sophisticated, commercial insurance coverage disputes that must be resolved through negotiation, mediation and litigation. He has litigated claims arising under CGL, D&O, builders risk, professional liability, first party property and other specialty policies throughout the United States. A significant portion of Mr. Kneisel's insurance practice is focused on construction-related disputes regarding coverage for bodily injury and property damage claims. He successfully argued one of the two leading cases decided by the Florida Supreme Court addressing coverage for construction defects. His work has included resolution of disputes arising under policies covering projects in the Dominican Republic, Puerto Rico, Venezuela, the United Kingdom, Norway, India and Portugal.

Mr. Kneisel has more than 37 years of courtroom experience in various state and federal courts, having litigated numerous commercial insurance, products liability and personal injury claims; civil rights claims, including employment-related disputes; workplace claims involving toxic torts, job-related emotional distress, invasion of privacy, defamation and workplace safety and health issues; and various other commercial disputes.

Mr. Kneisel was recognized in *The Best Lawyers in America*® for Insurance Law in 2017. He was recognized in *Who's Who in America* and *Who's Who in American Law*. Mr. Kneisel is AV® rated by Martindale-Hubbell.*

* CV, BV, and AV are registered certification marks of Reed Elsevier Properties Inc., used in accordance with the Martindale-Hubbell certification procedure's standards and policies.

Experience

We represented Raytheon Engineers & Constructors (RE&C) in negotiating and resolving indemnity claims by the owner of a 185 MW cogeneration plant constructed on barges in Texas and transported for installation in the Dominican Republic. The owner alleged that the power boilers had failed and produced significantly reduced output as a result of excessive slag buildup allegedly caused by negligent design of the boilers for which RE&C had assumed responsibility. After lengthy negotiation, the owner, RE&C, and RE&C's subcontractor who designed and built the boilers settled by agreeing to replace the damaged boilers with boiler specifically designed to accommodate the high vanadium, slag-prone fuel specified by the owner and by sharing the

proceeds of any insurance recovery. Raytheon's professional liability carrier paid a significant portion of the loss and then filed a subrogation action in Texas state court in the name of a successor to RE&C and in the name of the owner against Certain Underwriters at Lloyds and London Companies who had issued an all risk builders risk policy insuring against construction-related property damage that diminished the value of the plant. Our firm participated in part in the litigation against the builders risk carriers. *In re Certain Underwriters at Lloyd's London*, 294 S.W.3d 891 (Tex. App. Beaumont 2009)(discovery order).

The firm served as lead counsel in litigation seeking insurance coverage for losses incurred in repairing water intrusion damage to windows manufactured by our client. After settling claims against the general contractor by obtaining an assignment of the contractor's rights to pursue insurance coverage, we filed suit to recover the costs for repair and replacement of the windows, which had been negligently installed by a subcontractor. On appeal by the carrier from a jury verdict awarding damages under the products completed operations hazard (PCOH) of its CGL policy, the Eleventh Circuit certified the coverage issue to the Florida Supreme Court. The Florida court initially ruled that damage to the "defective work" (the windows) was not covered; but on rehearing, the court concluded that PCOH coverage was available if the damage to the windows had been caused by negligent workmanship of the subcontractor who installed them. Thereafter, the Eleventh Circuit affirmed the judgment awarding compensatory damages; and on remand, the trial court ordered the carrier to reimburse our client's attorneys' fees. *Auto-Owners Ins. Co. v. Pozzi Window Co.*, 984 So.2d 1241 (Fla. 2008).

After the trial court ruled on summary judgment that Citgo, as an "additional insured" under our client's GLC policy, could obtain $5 million in self-insured insurance proceeds for losses Citgo had incurred in settling underlying claims, the firm assumed the role of lead counsel for the defendant contractor. The matter arose out of an explosion and fire that killed or seriously injured numerous employees of the contractor while working at Citgo's refinery. The Louisiana appellate court reversed the summary judgment ruling; and on appeal from a subsequent $9 million jury verdict for Citgo, the appellate court ruled that Citgo's own, self insured policies should contribute to the loss, thereby reducing our client's liability exposure by more than $6 million. *Citgo Petroleum Corp. v.Yeargin, Inc.* 690 So.d. 154 (La. App. 3d Cir. 1997).

The firm served as lead counsel in litigation seeking coverage under an all risk property policy for the cost of remediating and repairing mold damage at a Savannah hotel. Our client also claimed several million dollars in damages for diminished occupancy and diminution in value of its hotel. The insurance carrier invoked exclusions for repairing construction or design defects and for "wear and tear" and also sought to reform the policy to include a mold exclusion that the carrier asserted had been mistakenly omitted from the policy. The district court denied the carrier's motion for summary judgment and issued multiple orders granting our client's motions to compel discovery, including discovery of opposing counsel's pre-litigation claims adjusting files. Thereafter, the case settled. *NUCO Investments, Inc. v. Hartford Fire Ins. Co.*, 2005 U.S. Dist. LEXIS 33350 (N.D. Ga. 2005).

The firm served as lead counsel in litigation to recover insurance proceeds under a warehouse liability (inland marine) policy for mis-delivery of a $3,000,000 painting. Our client had financed the purchase of the painting by a New York art dealer. When the borrower failed to pay the seller and in violation of a letter agreement

prohibiting release of the painting without our client's consent, the insured warehouse returned the painting to the original owner. After our client obtained a judgment against the warehouse company, which later declared bankruptcy, we sued the warehouse's insurance company to enforce the judgment. Resolving the matter on cross motions for summary judgment, the district court awarded full policy limits and prejudgment interest to our client. *AB Recur Finans v. Nordstern Ins. Co*., 130 F. Supp. 2d 596 (S.D.N.Y. 2001).

The firm served as lead counsel in litigation against our client's insurance broker and several major insurance carriers, including AIG, Travelers, Zurich and ACE, alleging that various agreements between the carriers and the broker providing for payment of so-called "back end" or "contingent" commissions violated Florida law. The lawsuit included claims for breach of fiduciary duty, RICO, antitrust conspiracy and other Florida state law claims. Disagreeing with rulings (later overturned by the Third Circuit) entered by a federal court in New Jersey rejecting federal antitrust and RICO claims alleged in a putative nationwide class action, the Florida trial court issued what was the first significant ruling upholding the state law causes of action that had been alleged. After three more years of vigorous litigation and discovery involving production by defendants of more than 18 million pages of documents and 38 depositions, the case settled on terms favorable to the client. *Office Depot, Inc. v. Marsh & McLennan Companies, Inc.*, 21 Mealey's Litig. Rep. Ins. Bad Faith 20; 2007 WL 3339228 (Fla. Cir .Ct., Palm Beach County Sept. 24, 2007).

The firm served as lead counsel for Raytheon Engineers & Constructors, Inc. in litigation brought by the owner of an experimental solvent refined coal plant to recover damages for the costs of remediating environmental contamination caused by TCA contamination. The TCA had leaked from numerous drums buried at the site by a predecessor company that our client had purchased about ten years earlier. Following a negotiated settlement of the owner's claims, our client pursued a cross-claim for contractual indemnity against the former owner of the company that had buried the drums. After a seven day trial, the jury returned a verdict awarding more than $8,500,000 in damages and attorney's fees to our client. Following a post-trial settlement, our client pursued insurance claims against the property insurer of the predecessor company, which were promptly settled.

The firm served as lead counsel in litigation alleging breach of a contract to provide three years of "guaranteed cost" workers compensation insurance coverage to our client, a large professional employer organization. At the end of the second year of the program, the insurance carrier argued that the growth of our client's payroll justified "re-rating" the program at twice the premium cost. When our client refused to pay the increased premium, the carrier canceled coverage; and our client sued for breach of the three year contract. The jury's award of more than $9,000,000 tied for the second largest verdict in a single plaintiff case tried during 2006 in North Carolina, according to North Carolina Lawyers Weekly, "Large Verdicts & Settlements" (January 29, 2007). On appeal, the fourth circuit affirmed the jury's verdict and the trial court's rulings in favor of our client, but reduced the amount of damages awarded.

Education

University of Georgia J.D. (1974) *cum laude*

Duke University A.B. (1968) Business Administration,

Admissions

Georgia (1974)

Court Admissions

U.S. Court of Appeals for the Eleventh Circuit

U.S. Court of Appeals for the First Circuit

U.S. Court of Appeals for the Fourth Circuit

U.S. Court of Appeals for the Second Circuit

U.S. Court of Appeals for the Sixth Circuit

U.S. Court of Appeals for the Third Circuit

U.S. District Court for the Middle District of Georgia

U.S. District Court for the Northern District of Georgia

U.S. Supreme Court

Clerkships

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Professional & Community Activities

American Bar Association, Tort and Insurance Practice Section, Member

Lawyers Club of Atlanta, Member

Georgia Law Review, Managing Editor

United States Navy, U.S.S. F.D. Roosevelt (CVA-42), Supply Officer

Insights

News

Kilpatrick Townsend's Media Report August 12-18, 2016

August 19, 2016

News Releases

Kilpatrick Townsend Earns Record-Breaking Recognition in Annual Best Lawyers in America 2017

August 16, 2016

Alert

General Liability Coverage for Cyber Risks Arising from "Publication" of Private Data

April 13, 2016

Alert

Defective Construction Can Be a Covered Occurrence in New Jersey – the End of Weedo?

July 23, 2015