

## Reinsurance

With extensive trial and arbitration experience, the Reinsurance group balances aggressiveness and efficiency to achieve positive results for clients. We have a reputation for being exceptionally focused and analytical. While there may be similarities, no two reinsurance disputes are the same, and drawing from our years of experience and applying a strategic focus, we are able to uncover nuances in a case that allow us to achieve the best possible outcome for our clients.

We not only understand reinsurance, but also the underlying insurance claims and coverage issues. We represent both ceding companies and assumed reinsurers in helping to avoid disputes before they develop, as well as arbitrating or litigating disputes when the parties cannot otherwise amicably resolve them. By working with our clients before a dispute develops, and while the underlying claim is ongoing, we are able to anticipate possible solutions and develop a strategy which can often lead to the quick resolution of disputes, saving the client both time and significant transactional expense.

In the last 15 years, we have litigated or arbitrated more than 100 reinsurance cases to final conclusion – resulting in awards in the hundreds of millions of dollars to ceding company clients, and very substantial savings to reinsurer clients. Numerous additional cases have been favorably resolved by settlement during the same time period.

Our lawyers have been involved in ground-breaking disputes including those involving:

- follow-the-fortunes
- environmental allocation
- workers' compensation
- numerous kinds of financial instruments
- insurer and reinsurer insolvency
- offsets
- reinsurance for asbestos losses
- actuarial issues in life reinsurance
- pools
- surety

We have negotiated market agreements with regard to major repetitive issues and have made substantial use of professional mediation in reinsurance disputes. We bring years of trial and arbitration experience to bear on clients' concerns and are

### RELATED PRACTICES

Financial Lines

Insurance Coverage and Bad Faith

### RELATED INDUSTRIES

Insurance

### PRACTICE HIGHLIGHTS

- "A go-to firm for reinsurance disputes in Philadelphia," Chambers USA 2016
- Possess extensive trial and arbitration experience - more than 100 cases to final conclusion in the last 15 years
- Construct audit protocols and perform audits for reinsurers, ceding companies and potential purchasers

very knowledgeable about the leading industry arbitrators and experts.

### **Auditing and Counseling**

We construct audit protocols and perform audits for reinsurers, ceding companies and potential purchasers with particular experience in:

- Professional liability: attorneys, accountants, medical, architects, engineers, etc.
- Directors & Officers
- Other property/casualty risks
- Life, accident and disability
- Workers' compensation
- Health care and medical malpractice liability programs

On behalf of reinsurance and transactional clients, we audit D&O, professional liability, and health care and medical malpractice accounts throughout the United States. Using our reinsurance claims experience as both inside and outside reinsurance counsel, we advise clients on broad and specific issues of claim handling and presentation including XPL and ECO losses, contract construction and interpretation, reserving, risk management, dispute avoidance and the use of ADR to minimize transaction costs.

Clients benefit from our cross-practice approach to auditing and counseling that draws upon the experience and resources of our reinsurance group together with the specific skills and experience of other practice groups within the firm. As an example, we audit and provide counseling to reinsurers on significant health care liability treaty programs involving admitted insurance companies, risk retention groups and other cedants. Our healthcare group provides subject matter expertise, including considerable trial experience involving physician and hospital liability, physician practice groups, nursing homes, allied health and many other aspects of healthcare and medical malpractice liability programs.

### **Insurance Insolvency**

We represent insurers, reinsurers and other entities in connection with insurer and reinsurer insolvencies and in disputes involving setoff, cut-through, acceleration, collateral, arbitration rights and other issues. We also counsel clients on eliminating or reducing the risks associated with the insolvency of trading partners and have negotiated settlements, commutations and assumption reinsurance transactions with receivers.

### **Transactional Work**

We counsel clients regarding the use of reinsurance-related devices in:

- the purchase and sale of businesses
- the purchase and sale of books of business
- real estate financing
- finite risk, ART transactions, non-traditional (structured) reinsurance

- commutations
- coinsurance, modified coinsurance and YRT agreements

We have drafted reinsurance and related contracts for life, accident and health and for property/casualty carriers to effect the transfer of books of business and portions of companies in countries across the globe. We have drafted reinsurance contracts to address risks in significant real estate transactions, to make contract language more suitable for technology exposures, to provide for new methods of risk transfer and in many other contexts.

## RECOGNITIONS AND AWARDS

Since 2015, White and Williams has been recognized by *Chambers USA* as a leading law firm in Pennsylvania for achievements and client service in the area of insurance law. The firm is described as "a go-to firm for reinsurance disputes in Philadelphia" and is also recognized for its adroit handling of complex alternative dispute resolution cases, with clients saying "they have very formidable folk" and "provide great value."

## REPRESENTATIVE MATTERS

Represented ceding company in arbitration under trade credit reinsurance treaty

Successfully argued to the New York Supreme Court, Appellate Division – First Department that a reinsurer's statute of limitations defense should be decided by arbitration panel rather than the court

Arbitrated dozens of reinsurance disputes concerning the accumulation of long tail claims pursuant to "causative agency" and similar language on behalf of ceding companies

Defeated reinsurers' documentation requirements applicable to the adjustment of asbestos claims

Obtained declaratory relief in several cases establishing a protocol with respect to the adjustment of reinsurance claims on a going forward basis

Arbitrated several cases on behalf of a ceding company seeking to collect reinsurance for asbestos liabilities under a clash treaty

Represented ceding companies in defense of reinsurers' rescission claims

Arbitrated disputes involving finite risk contracts

On behalf of a reinsurer, achieved summary judgment with respect to ceding company's attempt to cede Extracontractual Obligations under an Excess of Policy Limits provision

Successfully arbitrated series of surety reinsurance disputes arising out of Enron Mahonia bonds on behalf of a ceding company

Represented ceding companies and reinsurers against companies in liquidation and confronted issues involving offsets and cut throughs

**NEWS**

Best Lawyers® Recognizes 38 White and Williams Lawyers  
8.19.21

**PUBLICATIONS**

Disputes Over Arbitrator Qualifications: The Northern District of California Offers Some Guidance  
*Reinsurance Alert*, 7.14.21

"But it's 2021!" Service of Motion to Vacate Via Email Found Insufficient by the Eleventh Circuit  
*Reinsurance Alert*, 5.13.21

Reinsurance Agreements and Initial Disclosures  
*Reinsurance Alert*, 4.19.21

Reinsurance Litigants May Need to Avoid Putting Their Faith in the Tort of Bad Faith  
*Reinsurance Alert*, 3.26.21

Strike and Rank – An Alternative to the Strike and Flip Umpire Selection Process  
*Reinsurance Alert*, 3.4.21

Mind On His Money and His Money On His Mind: New York District Court Judge Affirms Arbitral Award Arising Out of Dispute Over Royalties Owed to Rapper Snoop Dogg  
*Reinsurance Alert*, 2.12.21

**EVENTS**

Functus Officio: Exploring Exceptions to the Finality of Arbitral Awards  
ARIAS U.S. Live Webinar, 5.12.21

M&A Shareholder Litigation and Bump-Up Claims  
Webinar, 4.27.21

It's a Deal! A Workshop Designed to Sharpen Negotiation Strategies and Techniques  
AIRROC Negotiation Workshop (New York, NY), 6.2.15