

Insurer's Duties to Excess Carrier and Bad Faith

Strafford Webinar
9.29.22

The duties and obligations existing between the primary insurer and the excess insurer that has contracted with the insured are labyrinthine. The primary insurer and the excess insurer **both have a contract with the insured, but not with each other.**

Untangling the web of issues requires understanding the relationship between the different insurers and how different jurisdictions have dealt with the **myriad conflicts that arise.**

The excess insurer enjoys a right to cooperation from both its insured and the primary insurer. The primary insurer has an implied duty to **advise the excess insurer of potential excess exposure** and to fairly and in good faith handle and negotiate the settlement of a claim within the primary limits. When these obligations are breached, the excess carrier may have claims against the primary insurer or the insured.

Listen as partners Celestine Montague and Tony Miscioscia discuss the bases for actions by and against the excess carrier, the typical fact patterns giving rise to claims, and current strategies for both the primary and the excess carrier.

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