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GLOBAL INSURANCE SERVICES

Goldberg Segalla is one of the premier law firms advising and representing the global insurance and reinsurance industry. Our 75-lawyer Global Insurance Services Practice Group, which *Law360* ranks among the largest in the United States, exists to serve insurers, reinsurers, and all others operating in the insurance arena.

Comprehensive Offerings and Global Reach

We are proud that executives, general counsels, and risk-management professionals across this space know they can call upon us to handle virtually any domestic or international need that arises, including:

- Complex and innovative transactions
- Thorny regulatory concerns
- Cross-border or cross-jurisdictional issues
- Advice on day-to-day operations
- Practical coverage opinions
- Resolving coverage disputes and other contentious matters
- Pragmatic and cost-effective approaches to pre-suit claim resolution
- Bet-the-company litigation

Our team has extensive experience serving the U.S., Europe, Asia, Latin America, Bermuda, and other key markets. We bring the exceptional ability to bridge international gaps, thanks to our deep market knowledge, multilingual lawyers, and team members admitted in foreign countries.

State-by-State Experience

Goldberg Segalla's Global Insurance Services group provides superior services to national and international insurers by encouraging collaboration across offices, mobilizing our top talent and relevant subject-area experts to offer counsel and defense wherever our clients need us. Though we work fluidly as a 75-attorney team, we also boast deep benches and decades of experience in numerous states across our footprint. Our statewide insurance services teams include:

GIS California: The insurance market in California, valued at well over \$123 billion, is one of the largest in the world — and California state law on coverage issues is uniquely well-developed, frequently placing the state on the forefront of emerging coverage issues. Many jurisdictions throughout the U.S. look to and cite California law as persuasive authority on key coverage issues that have not yet been considered in other jurisdictions. The GIS California team is mindful of the distinct challenges and opportunities the state's market presents, and has a record of thinking ahead to the future implications of taking particular positions or defenses. Goldberg Segalla's attorneys have decades of experience representing insurers in California with regard to CGL, E&O, fidelity, automobile, commercial property, homeowners, media, aviation, cyber, and excess/reinsurance policies.

GIS Connecticut: Regularly litigating first party property, construction defect, professional liability, and other coverage issues, our GIS Connecticut team is exceptionally qualified both to know and understand the nuanced, well-developed laws governing the insurance market as well as to identify and work creatively around the coverage-related legal issues that have yet to be sufficiently

addressed in the state's courts.

GIS Florida: Deeply versed in the difficulties facing Florida insurers — including statutory fee entitlement, a low threshold for bad faith claims, *de minimis* pleading requirements, and the high incidence of time-limited demands — our attorneys provide front-line investigation and defense of first-party property disputes along with pure coverage analysis on a wide scale, as well as comprehensive third-party insurance coverage and aggressive defense of bad faith matters.

GIS Illinois: Insurers in Illinois face high penalties for reaching incorrect coverage conclusions, possible estoppel from asserting coverage defenses to judgments or settlements, and the prospect of “going it alone” in casualty claims. With a reputation for anticipating and creatively meeting these challenges, our attorneys have been at the forefront of advising insurers and successfully litigating coverage disputes involving property and casualty claim challenges throughout the Illinois state and federal courts for decades. We routinely represent major insurers doing business in Illinois on high-exposure coverage matters across all product lines, including the litigation of declaratory judgment actions and extracontractual claims.

GIS Indiana: For decades, Indiana has been a consistently pro-policyholder jurisdiction with its courts routinely ruling contrary to insurance industry-advocated positions. Well-known as exceptional coverage litigators in this market, our attorneys regularly advise insurers and successfully litigate coverage disputes involving environmental, law enforcement liability, and other property and casualty claim challenges throughout the Indiana state and federal courts.

GIS Massachusetts: The Commonwealth of Massachusetts' consumer protection statute exposes insurers to the potential of incurring extracontractual liability. Our attorneys are well experienced in counseling clients in responding to demands under the consumer protection statute, the predicate for imposing extracontractual liability.

GIS New Jersey: Our extensive experience in handling Superstorm Sandy cases, both residential and commercial, positions us well to address similar natural catastrophes and/or property damage claims going forward. Our knowledge of first-party and third-party court decisions with respect to extracontractual claims also positions us well for the battles that will follow if the Insurance Fair Conduct Act is passed.

GIS New York: Our GIS New York attorneys — who have served as either advisory or litigation counsel for nearly every major insurer in the state — are intimately familiar with the nuances of New York Insurance Law 3420, and have litigated countless cases involving most subsections of that statute, including certain court decisions that have morphed the effect of that statute since its inception.

GIS North Carolina: Since 2000, the North Carolina Supreme Court has interpreted the state's unfair claims settlement practices statute to allow insurers to be subject to treble damages based on a standard well below the “bad faith” standard. Our GIS North Carolina attorneys have been advising and successfully defending insurers since decades before this landmark decision, and since then have been at the forefront of litigating extracontractual claims and other coverage matters across all product lines.

GIS Ohio: Ground zero in national opioid litigation, Ohio remains a challenging jurisdiction for insurers with respect to tort litigation and insurance coverage for that exposure. Our team includes multiple attorneys with experience litigating insurance coverage and bad faith matters in Ohio under

nearly every type of insurance policy in the market, including CGL, professional liability, environmental, and property policies.

GIS Pennsylvania: One of the most significant challenges for insurers operating in Pennsylvania is the state's well-established bad faith insurance statute, which provides for recovery of punitive damages and attorneys' fees for an insurer's bad faith conduct. Goldberg Segalla's strong GIS Pennsylvania team has four attorneys each with at least 20 years of coverage experience, as well as several other experienced coverage lawyers, with a record of securing dismissals of bad faith claims early in litigation to eliminate the exposure and associated costs. In addition, we routinely provide training to our insurance company clients on good faith claims-handling practices, providing further protection from bad faith exposure.

GIS South Carolina: South Carolina insurers continue to face the proliferation of high exposure construction defect claims, particularly over multi-family projects along the coast. Our attorneys have been at the forefront of advising insurers and of actively and successfully litigating coverage disputes over construction defect claims in South Carolina for many years — including the successful litigation of many issues of first impression under South Carolina law, such as the allocation of loss across triggered policy periods (*pro rata* time on risk), the enforceability of business risk exclusions, and the enforceability of the exterior insulation finish system (EIFS) exclusion.

GIS Wisconsin: Some recent decisions notwithstanding, Wisconsin has for decades been a consistently pro-policyholder jurisdiction — one that allows direct actions against insurers — with its courts routinely ruling contrary to insurance industry-advocated positions, including the adoption of "all sums" allocation in multi-insurer, multiple policy period progressive loss claim scenarios and the holding that CERCLA environmental response costs are considered "damages" under CGL policies. GIS Wisconsin attorneys are well experienced in representing carriers in the state, including in direct actions, simultaneously knowing how to avoid exposing carriers to disputes with policyholders and how to work cooperatively with defense counsel in order to avoid duplicative costs to the carrier.

Trust Earned Through High-Level Engagement

Several of the world's largest insurers and law firms have selected us to serve in capacities such as:

Regional coverage counsel for multiple insurers — in some cases covering more than a dozen states, and in another spanning more than 20

National bad faith coverage counsel

National reinsurance counsel

National fidelity/crime coverage counsel

National coordinating counsel for weather-related catastrophes such as Superstorm Sandy

One of only a select few firms handling 9/11 coverage litigation

Regulatory counsel for a Japan-based insurer in the \$5 billion acquisition of a NYSE-traded U.S. insurance holding company

National regulatory counsel for one of the largest providers of vehicle service contracts

A go-to resource for large, cross-border law firms without regulatory capacity to serve the U.S. regulatory needs of their multinational financial and other service-provider clients

This constantly growing and increasingly diverse list of assignments reflects the exceptional degree of trust and confidence we have earned in the worldwide insurance market. These engagements — coupled with recognitions like *Reactions* Law Firm of the Year and consecutive placements on the short list of finalists for *Intelligent Insurer's* Best Law Firm global award — attest we are a go-to firm globally.

Leading the Way ...

Members of our dynamic team have earned national and international recognition as leaders and trailblazers in many insurance-related legal disciplines. We also play a major role in driving the professional discourse on insurance and reinsurance law.

As one example, partner Thomas F. Segalla is the Editor of the seminal LexisNexis treatise *Couch on Insurance 3d* and of the *Reinsurance Professionals' Deskbook* published by Thomson Reuters (which featured seven contributing authors and editors from our firm). He was the founding President of the American College of Coverage and Extracontractual Counsel (ACCEC), a group of the most prominent and respected insurance lawyers in North America focused on improving the quality of the practice of insurance law. Three additional Goldberg Segalla partners are members of this exclusive organization.

Our lawyers hold key leadership positions in virtually all the most prominent national and international legal and insurance organizations. A small sampling of these positions includes:

- Past President, Defense Research Institute (DRI)
- National Committee Chairman Emeritus, Claims and Litigation Management Alliance (CLM)
- Past Chair, Federation of Defense and Corporate Counsel (FDCC) Insurance Coverage Section
- Co-Chair, FDCC Advance Committee
- Past Director, Senior Director, and Insurance Industry Committee Co-Chair, FDCC
- Past Chairs, International Association of Defense Counsel (IADC) Insurance and Reinsurance Committee
- Chair, IADC Eastern Pennsylvania State Committee
- Editorial Board member, *Insurance Law360*

In addition to our team members' work on important titles like the *Reinsurance Professionals' Deskbook* and *Couch on Insurance*, more than 10 Goldberg Segalla lawyers have been authors for the *Appleman on Insurance* LexisNexis treatise, with contributions including chapters on reinsurance, life insurance claims adjusting and fraud, litigation and regulatory aspects of Lloyd's in the United States, calculating coverage amounts, and mergers and acquisitions insurance.

On a near-weekly basis, members of our Global Insurance Services team author or contribute commentary to articles appearing in the publications insurance and legal professionals rely on, including DRI's *For the Defense*, *Mealey's Litigation Reports*, *Law360*, *Insurance Day*, *Intelligent Insurer*, *Reactions*, and many more.

Our *Insurance and Reinsurance Report* blog (insurerereport.com) — which was named among the top 50 insurance blogs by LexisNexis every time the list was published — provides regular national coverage and analysis of critical insurance law decisions and critical regulatory developments impacting the industry.

... by Breaking the Mold

Goldberg Segalla set out in 2001 to challenge the prevailing model of providing legal services. Our founders built this firm on systems that reward working together and growing long-term client relationships.

Our Global Insurance Services Practice Group reflects that vision and commitment. We realize that the insurance industry, in particular, faces unparalleled challenges. Our approach is driven by a deep commitment to being a solution to those problems for clients, not another source of stress.

As we explained to *Intelligent Insurer*:

“It all starts with truly understanding the client’s business. Our philosophy is, you have to walk in their shoes and feel their pain. You have to understand the pressures they are under and do everything you can to help them face those pressures. As one example, we have worked extensively to develop processes in our firm to ensure we follow our clients’ guidelines so we can help them keep their claims leakage numbers down.”

We built a strong reputation for outstanding work and stellar service by listening to our clients, appreciating their specific business philosophies and needs, and respecting their desire for efficiency. For example, when handling litigation, we pursue aggressive motion practice to dismiss common-law claims and preclude experts, and we strive to ensure the proper confines of discovery, including limitation to the administrative record and limitation of discovery against an insurer or carrier regarding its claims process.

The impact of this new approach? Just ask the insurance and reinsurance professionals and executives polled for *Intelligent Insurer’s* Global Awards, where we have been a finalist for the Best Law Firm accolade in multiple years, or consider our receipt of the *Reactions* Law Firm of the Year award in 2014.

For these and other honors, the industry ranked us alongside or even above long-established law firms that are several times our size — indicating that our way of doing things is something clients have craved for some time.

BAD FAITH AND EXTRACONTRACTUAL LITIGATION

The issue of how an insurer handles a claim or a request for coverage has become as important as the threshold issue of whether there is coverage at all. While most insurance litigation concerns issues of contract law, insurers often face claims in tort or under statutes alleging bad faith — either in interpreting the insurance contract or in the manner the claim was handled.

The attorneys at Goldberg Segalla believe that defending such a claim requires proactive management from day one. We practice early motion practice to dismiss bad faith and extracontractual claims at the onset of litigation, thereby ensuring the proper confines of discovery. At the onset, we identify and interview key employees, assess all documentation, and involve necessary experts.

Our practice includes one of the foremost bad faith expert witnesses. Thomas F. Segalla, editor of *Couch on Insurance*, has testified in more than 40 different jurisdictions as an expert witness on bad faith. Some of our recent matters include:

Successful denial of a motion to amend a complaint seeking to add bad faith claims in a large

environmental allocation claim

Summary judgment on third-party bad faith claims where the court reasoned that an erroneous coverage denial is not necessarily bad faith

Dismissal of first-party extracontractual and consequential loss claims

Successfully asserting that any bad faith claims and discovery regarding these claims must await an initial finding of coverage

Assisting insurers in extracontractual claims arising from large natural catastrophes, including Hurricane Katrina

CONSTRUCTION DEFECT COVERAGE

Goldberg Segalla attorneys are experienced in representing insurers in complex, multi-party coverage disputes arising from construction-related activities and losses. Specifically, our attorneys are well-versed in the insurance coverage issues prevalent in claims and suits between owners, contractors, and subcontractors. We have litigated these issues as questions of law, at the trial court level and in appellate courts, and also tried construction defect related coverage issues to juries.

Our knowledge and experience spans virtually all construction-related insurance — such as commercial general liability policies, professional liability insurance, owner controlled insurance programs, owner's protective liability policies, and WRAPs. We frequently assist in preparing coverage opinions addressing construction defect related coverage issues, preparing reservation-of-rights letters on behalf of clients, addressing tenders of defense of indemnification by or on behalf of additional insureds, and litigating construction defect coverage issues.

Whether the insurer has a dispute surrounding an additional-insured dispute, a claim for coverage for contractual defense and indemnity, or other construction-related coverage issues, we are well-positioned to provide our clients guidance on issues such as:

An insurer's duty to defend

Additional insured issues

Coverage for tenders of defense and indemnification

Evaluating whether the actions complained of constitute an "occurrence" and "property damage"

Coverage for known losses or loss in progress

Coverage for completed operations

Coverage for pollution events and pollution cleanup costs under construction policies

The scope of various business risk exclusions contained in commercial general liability policies

Allocation of losses spanning multiple policy periods

Allocation of coverage and uncovered losses

Representative Matters

Our attorneys successfully resolved insurance coverage litigation arising from numerous contractors being sued after an explosion from hydrofracturing activities caused personal injuries and property damage.

Our attorneys have represented clients in ground-breaking cases before state and federal appellate courts involving insurance coverage for construction defect claims under commercial general liability policies.

We successfully represented an insurance carrier in obtaining reimbursement from another insurer of a significant portion of a personal injury settlement paid in connection with a construction accident. The defendant insurer was disputing its status as a primary obligor of our client's insured.

COVERAGE B CLAIMS

Goldberg Segalla's Global Insurance Services Practice Group has a team of insurance coverage practitioners dedicated to counseling insurers on claims for which coverage is sought under Coverage B of the standard CGL policy. Our team stands ready to defend insurers in litigation, provide pre-suit analysis, counsel and assist with claim strategy, and prosecute affirmative declaratory judgment and contribution actions throughout the United States.

Coverage B encompasses a broad swath of subject matter, and our attorneys have decades of experience in these areas to draw upon. Our attorneys are armed with a robust understanding of the nuances of insurance relating to Coverage B claims. We bring that historical knowledge and deep experience to bear on every assignment with the goal of providing cost-effective, sophisticated advocacy.

In particular, our experience counseling insurers, conducting investigations, and litigating coverage involves the following subject matter:

- Privacy class actions
- Product disparagement
- Defamation
- Copyright infringement
- Patent infringement
- Trademark infringement
- Trade dress infringement
- False arrest
- False imprisonment
- Civil rights violations under 42 U.S.C. § 1983 *et seq.*
- Wrongful eviction

In addition to our case work, our lawyers are nationally recognized authorities on Coverage B issues who frequently publish articles and present on this topic across the country. Our team has one of the editors in chief, plus the authors of one of the central chapters, for the *Coverage B Compendium* published by DRI, the largest international organization of defense lawyers.

Representative Matters

Litigated a copyright infringement case of first impression to the North Carolina Supreme Court where our attorneys successfully obtained a declaration for our client that there was no duty to defend because the claims only alleged false statements about the insured's own products. The case involved important issues on the scope of an insurer's duty to defend and to provide coverage under the advertising injury provisions of a CGL policy. It was recognized by *Mealey's Insurance* as

one of the Top 10 insurance coverage decisions in the country in 2010.

Obtained dismissal with prejudice on behalf of a national carrier in a coverage dispute involving a defamation action by one dentist against a competitor. We successfully persuaded both the federal district court and the Eighth Circuit that the claim involved uncovered malicious defamation.

Litigated on behalf of multiple insurers nearly two dozen declaratory judgment actions involving coverage disputes under the Telephone Consumer Protection Act. Most cases settled through mediation, but we obtained summary judgment for a major carrier in one case venued in the U.S. District Court for the Northern District of Illinois.

Litigated and settled favorably for a national insurer a declaratory judgment action involving a multimillion-dollar coverage dispute over counterfeit software.

Acted as coverage and trial counsel for a law enforcement/municipal liability insurer concerning civil rights violations/wrongful imprisonment claims throughout the United States.

Advised and counseled a national insurer regarding the extent to which claims in a lawsuit against a tavern alleging discrimination were potentially covered under Coverage B as defamation, where the lawsuit did not specifically assert a cause of action for defamation, but the allegations could be read to set forth a claim for slander. This advice involved a nationwide review of the treatment given by courts to similar claims, in which the pleaded allegations could be read to support a cause of action for defamation, although a claim for defamation is not specifically pleaded, and the extent to which those courts found coverage available for the claims under Coverage B.

Advised and counseled a national insurer regarding the extent to which illegal lockout claims were covered under Coverage B issued to an organization that owns and operates various quarries. This assignment implicated five separate primary policies and five separate excess policies for a 24-count complaint and an eight-count third-party complaint, of which only a small portion of the claims were covered, including whether the insurer could offer to provide a defense for only the covered counts or could offer to contribute a portion of the defense costs representing the covered counts.

CYBER RISK COVERAGE

Cyber risk coverage is one of the fastest-growing and most-sought-after insurance products. It is a new area to the insurance industry, and with the exponentially increasing number of claims, the market has had to learn a great deal about managing these risks in a very short period of time. As the threats and potential consequences of data breaches continue to rise, insurers face a critical need for new products or to reevaluate their existing products and pricing models.

We help our clients navigate this emerging landscape with the unique training and experience of a dedicated cyber risk team integrated with our Global Insurance Services Practice Group — a renowned insurance and reinsurance practice ranked by market leaders and top global publications as one of the world's biggest and best practices serving this market.

Our services for insurers and reinsurers include:

Policy wordings and negotiations — To help minimize the risk of a potentially costly coverage dispute, our team can partner with clients to develop, draft, review, or modify policy language in

order to allocate appropriately the risk stemming from data breaches and privacy issues. On behalf of insurers and reinsurers, we regularly negotiate policies and treaties with policyholders and cedents.

Underwriting guidelines and coverage counsel — Our Global Insurance Services team has assisted with the creation of countless sets of underwriting guidelines. Utilizing dual-qualified U.S./U.K. counsel, Goldberg Segalla has provided coverage advice for a market leader with respect to a number of claims, valued at millions of dollars, made under its cyber, privacy, and social media policies. We are well-equipped to develop applications and underwriting guidelines specifically tailored to cyber risk.

Reputational risk coverage — Traditional first-party and third-party policies do not take into account the cost a company incurs protecting and repairing its reputation following a data breach. We are ready to assist insurers with developing products geared specifically toward this crucial component of the data breach landscape. In fact, Goldberg Segalla lawyers worked with insurers to develop some of the first reputational risk policies that address these new and escalating challenges.

Coverage dispute defense — Many of the world's largest insurers and reinsurers trust Goldberg Segalla to defend them in their highest-exposure coverage disputes, whether involving first-party or third-party claims. As recognitions like *Reactions* Law Firm of the Year demonstrate, Goldberg Segalla is a go-to firm globally for complex, high-risk coverage litigation.

Auto insurance telematics — The legal environment surrounding the issue of data privacy and ownership in auto insurance telematics is evolving, on both state and federal levels. Legislators and state regulators, however, are having difficulty keeping pace with advances in this field, and the federal government's efforts sometimes conflict with the efforts and/or the prerogatives of state regulators under the McCarran-Ferguson Act. We are well-equipped to keep insurance carriers and producers, automobile manufacturers, telematics system vendors and technology providers, and operational and risk executives updated on the constantly evolving state of the law. We attend all meetings of the National Association of Insurance Commissioners, follow the National Conference of State Legislators' published legal surveys, participate as speakers and workshop leaders at automobile telematics and insurance analytics conferences sponsored by private and professional organizations, and counsel clients on how to structure their telematics offerings.

Goldberg Segalla attorneys are nationally recognized cyber liability and data risks coverage specialists, and have co-authored multiple innovative insurance products widely used in the excess and surplus lines insurance market to address data and cyber protection risks.

Representative Matters

Goldberg Segalla attorneys represented a domestic insurer in high-profile insurance coverage litigation stemming from the Sony PlayStation data breach. We obtained a dismissal of the insurer, who issued a cyber insurance policy to the insured.

Our attorneys have counseled numerous insurers on the scope of coverage under their cyber insurance policies in relation to the outbreak of class action litigation involving the capture and/or

disclosure of personally identifiable information, invasion of privacy claims, and alleged violation of state and federal statutes.

Counseled insurer client in drafting media in the scope of coverage under their cyber insurance policy requiring specialty knowledge and industry experience in types of media and intellectual property intended to be covered and exclude certain risks.

DIRECTORS AND OFFICERS LIABILITY COVERAGE

Goldberg Segalla's lawyers remain at the forefront of the evolving directors and officers liability insurance market. As D&O insurance has become a commonplace tool for public and private companies to protect key executives and minimize corporate exposures, we assist our clients with understanding the merits, potential damages, and coverage issues presented by a variety of underlying exposures.

We work aggressively toward effective claims resolution while being sensitive to our clients' business reality — all of our legal tactics and choices are informed by a comprehensive but flexible strategy tailored to the client's needs and long-range objectives. Drawing on our firm's extensive experience providing counsel in connection with some of the largest and most complex public and private D&O exposures, we provide our clients with a broad perspective and deliver value and superior service from the first notice of claim through final disposition.

We represent insurance carriers under D&O policies issued to policyholders ranging from *Fortune* 500 companies to smaller and privately held companies, as well as various financial institutions including investment advisors, mutual funds, hedge funds, and private equity firms. Our team's experience extends to claims presented under the Securities Act, Securities Exchange Act, Sarbanes-Oxley Act, Foreign Corrupt Practices Act, and other legislation impacting corporate entities and their management.

Our attorneys are positioned to handle the largest and most significant insurance coverage disputes, drawing from national leadership credentials that include serving as chair of the Directors and Officers Subcommittee of DRI's Insurance Law Committee, as well as the knowledge and capabilities of the directors and officers litigation practice in our Corporate Services and Commercial Litigation, and Professional Liability teams.

Our capabilities include:

Evaluation, monitoring, and resolution of complex D&O claims — Many of the world's leading insurers turn to our Global Insurance Services team to analyze, litigate, and resolve claims presenting cutting-edge coverage issues and complex claims. We leverage our globally recognized team's broad knowledge base and experience to assist in evaluating the merit and value of claims, monitor the progression of litigation, and provide innovative and practical solutions to resolve claims through negotiation, alternative dispute resolution, or if necessary, litigation. When litigation is necessary, our attorneys have vast experience representing D&O insurers in coverage disputes in state and federal courts throughout the nation.

Policy wordings and negotiations — To help minimize the risk of a potentially costly coverage dispute, our team can partner with clients to develop, draft, review, or modify policy language in

order to tailor a public or private D&O policy to the unique risks of a policyholder. On behalf of insurers and reinsurers, we regularly negotiate policies, endorsements, and treaties with policyholders, brokers, and cedents.

Risk assessment — Through the underwriting process, our attorneys can work with insurers to evaluate risks presented by a potential policyholder, and assist insurance companies through their underwriting decisions — providing valuable insight into the specialized exposure faced by corporations in various fields. This includes guidance on emerging risks such as data breaches and other cyber risks. We harness the broader knowledge of Goldberg Segalla's spectrum of lawyers in our diverse range of practice groups to identify risks for our clients before they quote or bind.

Representative Matters:

Goldberg Segalla attorneys have represented lower-tier excess insurers as coverage and monitoring counsel under public company D&O policies in connection with large scandals (e.g. Madoff-related litigation, subprime/credit crisis-related litigation, and insurance brokerage contingent commission scandal), as well as securities and derivative litigation stemming from securities offerings and corporate disclosures.

Goldberg Segalla attorneys successfully represented the insurer of a private equity fund in connection with a claim made by an investor of the fund against the fund general partner and several limited partners. After the private equity fund settled the underlying lawsuit, we negotiated a settlement of the coverage issues with the insured for a fraction of the underlying settlement value by asserting there was no covered loss under the policy, and that the settlement payment may have been characterized as uninsurable disgorgement or restitution damages.

Goldberg Segalla attorneys represented an insurer under a private company D&O policy issued to a taxi company that was sued, in part, for wage and hour violations. Although some of the claims against the taxi company would not constitute covered loss, the company demanded 100 percent advancement of defense costs. We were able to engage the insured in pre-litigation mediation and resolve the dispute, achieving a beneficial allocation for the advancement of defense costs, and creating value for the insurer by avoiding costly coverage litigation.

ENVIRONMENTAL AND MASS TORTS COVERAGE

Our attorneys regularly represent insurers in complex, multi-party coverage disputes with potential exposure in the hundreds of millions of dollars. These claims — which may arise out of environmental contamination and pollution, toxic tort, or product liability — often involve significant exposure regarding a policyholder's core business.

It is often critical in a large-scale loss that counsel "gets on the ground." At Goldberg Segalla, we partner with the foremost industry consultants at all stages of a claim and throughout the course of coverage litigation, working to ensure that the technical aspects of each case are properly addressed. Our collective experience with the CERCLA/Superfund, RCRA, Clean Air Act, CPSC, and a wide variety of other federal and state statutes serves our clients well in insurance disputes.

We have handled a wide variety of coverage disputes arising from contaminated property and personal injury issues, including, exposure to hazardous materials, leaking underground storage tanks, Legionnaires' Disease, natural gas fracking, occupational health and safety issues, oil and gas spills, sick building syndrome, storage and transport of hazardous chemicals, professional negligence claims concerning environmental consultants, and soil cleanup. We have also litigated cases dealing with the release of hazardous substances from landfills; the discharge of hazardous materials from manufacturing operations; and the analysis of claims for contamination of navigable waters, aquifers, drinking water sources, and groundwater.

Goldberg Segalla attorneys are nationally recognized environmental and mass tort coverage specialists, and have co-authored multiple innovative environmental liability insurance products widely used in the excess and surplus lines insurance market to address environmental pollution and environmental professional risks.

In addition, our attorneys have successfully litigated in state and federal courts on issues such as:

- Proper interpretation of the pollution, asbestos, and occupational disease exclusions
- Negotiation of cost-share and commutations of policies
- Number of occurrences
- What constitutes a "suit"
- Allocation of costs
- Successor liability
- Self-insured retentions
- Insolvency
- Waiver and estoppel
- Trigger of coverage and exhaustion

REPRESENTATIVE MATTERS

In a case of first impression nationally, Goldberg Segalla attorneys obtained a precedent-setting decision from the Connecticut Appellate Court finding that the "occupational disease" exclusion served as a bar to coverage for workplace toxic exposure claims for workers not employed by the insured. The court declared that nothing in the provision's plain language limited the exclusion to claims brought by a policyholder's own employees or exclusively to the workers' compensation context.

We served as trial and appellate counsel in multi-jurisdictional declaratory judgment actions to reform historic commercial general liability policies to reflect intent to include asbestos exclusions, which resulted in a case touching on several issues of first impression, ending in a precedent-setting verdict in favor of the insurance industry.

We served as coverage, trial, and appellate counsel in several multi-party insurance coverage declaratory judgment disputes arising out of thousands of complaints where the underlying plaintiffs alleged bodily injury caused by exposure to benzene- and asbestos-containing materials.

We obtained a ruling in favor of our client involving insurance coverage for environmental claims arising from sewage discharge from 50 property owners onto an adjacent property. The court held that our client's pollution exclusion, and the biological deterioration or damage exclusion, in its

policies barred coverage for numerous claims arising from the alleged discharge of sewage. Goldberg Segalla attorneys prevailed before the Delaware Supreme Court in a coverage matter involving whether an exclusion pertained to a claim for personal injuries suffered as a result of alleged in-home carbon monoxide poisoning. In an issue of first impression, the Delaware court concluded that the claim was not covered under our client's unambiguous pollution exclusion, paving the way for other insurers facing similar claims in the jurisdiction.

We served as national coverage counsel for a Canadian insurer in relation to dozens of lawsuits across the country involving our client's Canadian insured and its American subsidiary. The insured was named in dozens of product liability lawsuits across the United States, asserting that it manufactured defective gas grills that caused fires and property damage. The client turned to us because of our expertise in complex insurance coverage disputes, ability to handle matters in multiple jurisdictions, and our knowledge of bankruptcy issues.

We obtained a dismissal for our client in a coverage case arising out of hundreds of noise-induced hearing loss cases across the country, brought by firefighters against siren manufacturers. Our client issued a dozen primary and excess policies, and the coverage case involved complex issues such as number of occurrences, application of SIRs, and satisfaction of SIRs through payments by third-party sources.

EXCESS AND SURPLUS LINES

The excess and surplus market represents an important segment of the overall insurance industry, filling a key gap in the availability of coverage. With this type of insurance, the risks are often outside the box of what the standard carriers are comfortable writing. For example, the risks may have a claims history that make standard insurers unwilling to cover them or require payment of an unacceptably high premium. This may include coverage for a hole-in-one event, an amusement park, or an oil drilling operation.

The attorneys at Goldberg Segalla look both inside and outside the box to successfully resolve disputes arising out of excess and surplus lines coverage. We have extensive experience as monitoring counsel for excess and surplus lines insurers (both foreign and domestic), and we have successfully handled disputes over language in the Bermuda Form and other specialty risk policies. In addition, we have handled the regulatory needs of these carriers as well. Some of our recent engagements involved:

- Risks that were materially misrepresented during the underwriting process, such as location, loss history, and prior cancellation

- "Ultimate Net Loss" as defined under a policy

- Equitable contribution claims

- Successfully defending claims for third-party coverage that were, in fact, policyholder capital improvements

- Assisting E&S carriers to become eligible nationwide

- Advising the E&S market of significant changes in the rules of the various surplus lines stamping offices

Because of Goldberg Segalla's knowledge in the excess and surplus lines market, our attorneys are

frequently called upon to assist in preparing pre-eminent treatises and articles in this area of the law. For example, we authored Chapter 80 of the *New Appleman on Insurance Law Library Edition* entitled "Lloyd's in the United States" — highlighting important aspects of the regulatory and litigation environment in the United States where Lloyd's and its members are concerned.

Representative Matters

We represented an E&S carrier following a multi-million-dollar settlement of a workplace accident claim. We intervened in a dispute between the contractor and property owner and pursued payment from the contractor's insurer, arguing it was primarily responsible for paying the settlement amount. On the eve of trial, we secured an extremely favorable recovery for our client.

Goldberg Segalla successfully represented an E&S insurer regarding a coverage action over a potential \$8 million class action judgment alleging violations of the Telephone Consumer Protection Act. We represented the client in a declaratory judgment action, in which it obtained a summary judgment ruling that it did not owe a duty to defend or indemnify its insured.

Goldberg Segalla attorneys secured a favorable result for their client after moving to dismiss a plaintiff's claim for UIM benefits. The plaintiff sought UIM benefits from his personal auto insurer and his employer's auto insurer for serious injuries sustained while operating a vehicle owned by his employer. After moving to dismiss on the basis that the tortfeasor's vehicle was not underinsured as a matter of law, the motion was so persuasive the plaintiff and the other insurer-defendant voluntarily agreed to dismiss all claims against our client with prejudice.

FIDELITY BONDS AND CORPORATE CRIME INSURANCE

Goldberg Segalla defends insurers against claims brought by financial institutions and other corporate policyholders involving financial institution bonds, fidelity bonds, and crime policies. We serve fidelity clients throughout the nation and around the world, and our attorneys have directly handled matters in the United States, Europe, South America, and England.

Our fidelity attorneys bring to each engagement the deep and comprehensive understanding of financial operations necessary to handle immensely complex cases involving insider trading, foreign exchange trading, securities and commodities markets, credit and lending activities, money laundering, computer and telecommunications fraud, and other operations. We leverage our extensive and growing network of prominent accountants, international investigators, and financial and banking professionals to assist with examination and analysis of claims.

We have decades of experience counseling insurers, conducting investigations, and handling first-party coverage litigation in matters involving:

- Fraudulent acts
- Fund misdirection and misappropriation
- Embezzlement
- Account manipulation
- Employee dishonesty
- Improper wire transfers

Check-kiting
ERISA fraud
Lending losses
Computer fraud
Social engineering losses
Forgery
Ponzi schemes and other financial scams
Mortgage fraud
Securities fraud
Safe-deposit box burglary
Catastrophe-related safe deposit box claims
Precious metal loss

We also represent reinsurance companies in many fidelity and surety matters, including liquidation of primary and reinsuring carriers. In addition, our experience includes representing U.S. and London underwriters, as coverage and monitoring counsel, in connection with claims under director and officer liability and other professional liability policies.

Representative Matters

SAFE DEPOSIT BOX LOSSES: We have conducted and supervised the investigation and coverage analysis of catastrophic safe deposit box losses for underwriters of major financial institutions resulting from major natural and man-made disasters. In each case, Goldberg Segalla developed a strategy and procedure for analysis and reimbursement of thousands of affected safe deposit box-holder claims, supervised a team of experts, and handled all aspects of the resulting litigation. We performed this innovative service in connection with tragedies and occurrences that include:

The September 11 terrorist attacks on the World Trade Center
Hurricane Katrina
Superstorm Sandy
A rash of burglaries in the New York City area and across the country

FRAUD SCHEMES: We have also led the insurance coverage investigation of many employee dishonesty, embezzlement, and fraud claims, including Ponzi schemes. Our experience in this area includes matters involving:

\$61 million loss arising from an employee embezzlement scheme in Argentina
\$15 million loss resulting from employee theft
\$200 million loss resulting from employee theft
\$600 million Ponzi scheme
Significant mortgage fraud claims in California and Kentucky
Employee theft claims throughout the United States

FRAUDULENT WIRE TRANSFERS: We obtained dismissal for an insurer in a coverage dispute involving fraudulent wire transfers — the first federal court decision on the particular issues involved. In this case, the insured credit union's employee did not follow security guidelines because he failed to call back the requesting member on a secure phone number. The U.S. District Court for the Eastern District

of Pennsylvania agreed with our argument that the exclusion limiting coverage to employee dishonesty or funds transfer coverage was clear and applicable to the facts. The court granted our motion to dismiss and barred the insured's claims under any other insuring grant.

INSURANCE FRAUD

Goldberg Segalla's insurance fraud team of attorneys works closely and cooperatively with Special Investigation Units (SIU) as well as claims and auditing departments to investigate cases involving insurance fraud. We work collaboratively to help hone investigations, analyze data and formulate cost-effective litigation plans that allow insurers to quantify the results of their anti-fraud activities.

Insurance fraud may occur across various lines of coverage, and it may extend from rate evasion in the underwriting of coverage, suppression of exposures on audit, fabricated losses, and post-loss claim enhancement. Our attorneys combine a broad knowledge base of our client's insurance products with up-to-the-minute knowledge of the latest schemes fraudsters are employing to take advantage of our clients. The synergies created between that knowledge base and our experienced and savvy litigators gives Goldberg Segalla clients a competitive edge against fraud.

Our experience includes combating all types of dishonest conduct aimed at harming our clients:

- Application and premium fraud
- Discovery of hidden payroll in computer business records
- Recovery of unpaid insurance premiums
- Policy rescission
- Staged motor vehicle accident rings and thefts
- Unlicensed medical providers
- Medical provider billing eligibility and fraud
- Business interruption losses
- Identity fraud
- Fraudulent employment discrimination claims
- Exaggerated property loss claims
- Enhanced personal injury claims

Representative Matters

Staged Accident Rings. We have devised and implemented action plans that focused on the professional enablers (attorneys and medical providers) that staged accident rings depend upon, effectively halting the criminal enterprise and obtaining restitution.

Fraudulent Superstorm Sandy Property Claims. We have utilized technology to demonstrate that "photos" of devastating property losses were bogus. In a multi-million-dollar commercial property claim, we utilized records from the New Jersey Department of Environmental Protection to demonstrate that the mechanism of loss proffered by an insured's engineering expert was unlikely, while that offered by the insured's cause and origin expert was consistent with the records of state regulators.

Workers' Compensation Premium Fraud. In a case involving a moving company, where the insured maintained all its records were destroyed in a flood, we worked with our client to forensically

re-create records of the insured's activity, largely by obtaining records from the Federal Motor Carrier Safety Administration and the insured's accountants.

In another case involving multiple related trucking companies, our team reconstructed the paper trail disclosing an insured's true payroll by sifting through 30,000 pages of bank records, revealing millions of dollars of hidden payroll.

\$2 Million Summary Judgment. In a case of first impression, we obtained a summary judgment in federal court in which the court applied a relatively unknown workers' compensation fraud statute. Summary judgment was awarded for more than \$2 million.

INSURANCE REGULATORY

Goldberg Segalla's Insurance Regulatory Practice Group is positioned to handle any domestic or international insurance and reinsurance regulatory issue or transaction. Our extensive experience in insurance corporate and regulatory matters — from property-casualty to life, accident, and health and annuities — includes inbound public and private insurance company mergers and acquisitions, and other transactions. We bring the exceptional ability to bridge international gaps, thanks to our deep market knowledge and our team's experience serving clients in the U.S., Europe, Asia, Latin America, Bermuda, and other key markets.

As a go-to firm for several of the world's leading insurers and reinsurers, Goldberg Segalla provides invaluable insight related to the day-to-day regulatory issues facing the insurance industry and the most effective methods in addressing even the most complex regulatory challenges. Our team has a proven track record helping clients resolve issues before regulatory bodies, respond to inquiries or investigations, and maintain positive relationships with regulatory authorities.

Our combination of international experience, market savvy, and worldwide reach makes Goldberg Segalla particularly well suited to help clients implement successful regulatory strategies and navigate this highly nuanced environment. As widely recognized thought leaders in the global insurance and reinsurance arena, we regularly advise on emerging trends, legal issues, and the activities of state and federal insurance regulators, the National Association of Insurance Commissioners (NAIC), surplus lines stamping offices, the International Association of Insurance Supervisors (IAIS), and other bodies that shape insurance regulatory policies, including Lloyd's of London.

A small sampling of the ways our team partners with clients follows.

Insurers and Reinsurers

Entity formation, including United States branches of alien (i.e., non-U.S. domiciled) insurers and risk-purchasing groups, as well as structuring, sale, mergers, acquisitions, restructuring, reorganization, and dissolution of insurance and reinsurance companies

Regulatory filings associated with formation and change of control (i.e., restructuring, conversion, and redomestication of U.S. subsidiaries or domestication of U.S. branches of alien insurers, etc.)

Licensing matters, including company formation, admission, expansion, and redomestication (e.g., preparing all corporate and transactional documents and agreements and preparing and submitting Uniform Certificate of Authority Applications to all 50 states)

Guidance regarding the creation, approval, and marketing of insurance products, including application to and negotiation with appropriate authorities

Representation in connection with statutory market conduct examinations, state regulatory examinations, and voluntary internal compliance audits of insurers and joint underwriting associations, along with resolution of consumer complaints, administrative hearings, and governmental inquiries and investigations of insurers and producers

Representation concerning solvency and other industry modernization initiatives, such as the European Union's Solvency II directive and the NAIC's Solvency Modernization Initiative, the effects of the Nonadmitted and Reinsurance Reform Act and other applicable sections of the Dodd-Frank Act, the effects of Brexit on the U.S. excess and surplus lines industry, the impact and nuances of the Patient Protection and Affordable Care Act, etc.

Advising on compliance with the NAIC's Model Insurance Holding Company Systems Act and Corporate Governance Annual Disclosure Model Law, the Foreign Corrupt Practices Act, the UK Bribery Act, the Sarbanes-Oxley Act, , Own Risk and Solvency Assessment (ORSA), statutory investment regulations, federal and state privacy and anti-bribery statutes and New York's groundbreaking Cybersecurity Regulation Protecting Consumers And Financial Institutions From Cyber-Attacks

Advising on regulatory issues concerning the use of social media and usage-based big data in insurance underwriting

Representation and counsel on transactions including portfolio transfers, assumption reinsurance, public and private financing, offshore structures, insurance-linked securities, etc.

Producers and Other Insurance Intermediaries

Guidance concerning entity formation, licensing, mergers, acquisitions, asset acquisitions, and other transactions for insurance agents and brokers, managing general agents, reinsurance brokers, independent adjusters, third party administrators and excess and surplus lines brokers

Compliance advice regarding referral arrangements, limits on commission sharing, fiduciary requirements, anti-rebating laws, etc.

Representation with respect to consumer complaints

Defending broker-dealers and registered representatives in Financial Industry Regulatory Authority (FINRA) arbitrations involving securities-related claims and with respect to FINRA disciplinary actions

Captive Insurance Companies

Developing creative risk-retention/transfer solutions and efficient risk-management programs

Advising on captive-specific industry developments and pertinent legislation such as the Nonadmitted and Reinsurance Reform Act component of the Dodd-Frank Act, the Liability Risk Retention Act, the Terrorism Risk Insurance Act, and other government activity

Drafting policy language and developing claims-handling procedures

Representative Matters

Our insurance regulatory team partnered with one of the world's largest and most highly acclaimed

cross-border law firms on a \$5 billion acquisition of a New York Stock Exchange-listed financial services holding company with operating life insurance and annuity companies licensed in all 50 states and U.S. territories and possessions. We collaborated with lead counsel in drafting the transaction document, performed all regulatory due diligence, prepared and filed all statutorily required Form A approval and Form E non-competition filings with state regulators, and participated in the domiciliary state regulatory approval hearing.

For another cross-border law firm, we advised a Canadian bank holding company and a foreign airline on regulatory issues pertaining to their subsidiaries in the United States.

We have handled acquisitions of U.S.-based property-casualty insurance companies licensed in multiple states by overseas insurers as well as a similar transaction for a joint venture majority-owned by a private equity firm.

We counseled the owner of an Arizona captive insurer in selling the captive and transferring its policies to another insurer

LIFE, HEALTH, DISABILITY, AND ERISA

Goldberg Segalla's Global Insurance Services Practice Group has a nationally recognized team of insurance lawyers and litigators focused on life and health insurance, disability benefits, and Employee Retirement and Income Security Act (ERISA) matters. We serve the comprehensive needs of insurers, plan administrators, and others operating in the LHD and ERISA space.

Our team brings to each situation deep industry knowledge and proficiency navigating the nuances and complexities that characterize LHD and ERISA work. Our mastery of this area and our experience across the U.S. and international markets drive more practical counsel, more creative solutions, and stronger advocacy in coverage disputes. This is especially true in matters that cross jurisdictional lines, when understanding the interplay of varying rules and caselaw is critical to efficiency and success.

These are a few reasons why several of the world's largest insurers trust us with their most complex, high-exposure LHD and ERISA matters.

A small sampling of the ways our team partners with clients follows.

Life Insurance

- Claims involving questions whether a death was "accidental"
- Contestability, fraud, and material misrepresentation (including foreign death schemes)
- Lapsed or canceled policy issues
- Beneficiary concerns and disputes, including those involving beneficiary changes and unique slayer statute scenarios
- Policy rescission
- Premium disputes and policy administration
- Stranger-originated life insurance (STOLI) and corporate-owned life insurance (COLI)

Health Insurance

Disputes over payor submission deadlines and third-party billing
Health insurance and provider audits
Health Insurance Portability and Accountability Act (HIPAA) compliance and litigation
Health care subrogation and third-party lien disputes
Billing agent errors and omissions
Mandatory insurance reporting to Centers for Medicare and Medicaid Services (CMS)
Affordable Care Act compliance
Guidance regarding health insurance exchanges

Disability Benefits

Defeating challenges to discretionary clause language
Benefits limitation determinations, such as limits to an “own occupation” period as opposed to “any occupation”
Resolving disputes among overlapping disability policies
Litigation over plan conflicts of interest affecting the standard of review
Heightening efficiency by limiting discovery to the administrative record
Fraud investigations
Policy rescission

Employee Retirement and Income Security Act (ERISA)

Proactive and prompt removal of ERISA cases to the federal courts
Evolving issues concerning ERISA preemption, including preventing claims of estoppel, waiver, bad faith, fraud, etc.
Discretionary standards
Interference and retaliation claims under ERISA Section 510

Regulatory Guidance

Organization and licensing of life insurance companies
Guidance with life insurance and group disability insurance policy form filings
Compliance with state insurance laws regarding corporate governance and disclosure rules
Compliance with New York Insurance Law requirements for first-year agent compensation
Filings submitted to demonstrate compliance with Section 4228 of the New York Insurance Law (agent compensation limitations)

Compliance with replacement rules for life and annuity contracts, including notifications and disclosures
Compliance with rules governing advertisement of life insurance and annuity contracts
Representation in market conduct examinations and agent disciplinary proceedings

Representative Matters

In a federal court action involving a long-term disability policy governed by ERISA, we successfully litigated the review of the insurer’s benefit decision under the plan. With benefits of \$850,000 at stake, we efficiently and effectively minimized litigation costs by aggressively defending against

discovery and proceeding to early dispositive motions seeking judgment on the administrative record. We successfully argued the motion and overcame allegations of a conflict of interest through the use of carefully crafted client affidavits. This litigation resulted in a lengthy reported decision that created positive precedent in the ERISA benefits field.

An ERISA insurer retained Goldberg Segalla to enforce its rights regarding an eligibility decision under an employee benefits plan. The case involved an intricate issue regarding interpretation of the plan's terms surrounding "active work" and the effect of payments to a previous employee under a severance agreement. The federal district court upheld the insurer's interpretation of the plan terms and cited wholesale from the brief prepared on behalf of our client. Additionally, we were successful in defending against the admission of extrinsic evidence outside of the administrative record.

In a case of first impression in New York, we used offensive interpleader to help a life insurer avoid impending litigation and rightfully prevent the vast majority of a \$500,000 policy's benefits from going to the mentally ill fiancé who murdered her. What made the case novel and complicated was the fact that a jury found the fiancé guilty but not criminally responsible for the policyholder's murder — leaving the question of whether New York's slayer statute, which had recently changed, applied. We convinced the court our client should be entitled for interpleader relief, and the court allowed the parties to negotiate an agreement amongst themselves. In addition, we guided the life insurer through establishment of a trust for the policyholder's children, taking steps to minimize the risk of future litigation.

A health insurer called on our team to protect it from paying approximately \$100,000 in medical treatment benefits to a serial fraudster. We acted for and guided the insurer through a number of legal and regulatory steps to counter the attempted fraud, including petitioning the state regulatory agency to give our client relief from the non-cancellable, guaranteed-renewable policy that had essentially handcuffed the insurer and the doctors from whom the policyholder repeatedly sought unnecessary treatment. We also filed notice to the state's bankruptcy trustee to report the policyholder's failure to disclose as income, when she filed for bankruptcy, the \$35,000 in benefits she had already received from her fraudulent doctor visits.

Goldberg Segalla was regulatory counsel for a Japan-based life insurer in its \$5 billion acquisition of a New York Stock Exchange-traded financial holding company and its nationwide U.S. insurance operations. Our role included contract drafting, regulatory due diligence, structuring corporate governance of the new combined insurance holding company group, and handling all regulatory approval applications, hearings and related activities, and preparation of enterprise risk-management reports.

Leaders in Life, Health, Disability, and ERISA Practice

Goldberg Segalla attorneys are nationally recognized leaders and authorities in the field of life, health, disability, and ERISA. Our team includes:

Author of the Second Circuit chapter in the American Bar Association's *ERISA Survey of Federal Circuits*

An author of the "Life Insurance Claims Adjusting and Fraud" chapter in the LHD installment of *Appleman on Insurance 3d*, with an expanded section on stranger-originated life insurance (STOLI)
Frequent speakers and authors on issues related to discretionary language, insurance claw-backs in

ERISA plans, and a broad range of life, health, disability, and ERISA topics

PROFESSIONAL LIABILITY (ERRORS AND OMISSIONS)

Professional liability insurance is one of the most dynamic sectors of the insurance market because the service economy continues to grow, and the insurance products must continually evolve to meet the market demand. Goldberg Segalla's Global Insurance Services Group has an insurance coverage practice focused on professional liability policies issued to architects, engineers, insurance agents, lawyers, accountants, health care providers, and other professionals. Insurance companies regularly retain our attorneys to handle their most complex errors and omissions coverage matters nationally.

Our attorneys advise insurers as to their rights and obligations under E&O policies, and assists clients in communicating their coverage positions clearly and precisely to the insureds. Since most E&O policies are "claims made" or "claims made and reported," we assist in evaluating for our clients whether claims were properly made (or, in some cases, made and reported) within the policy period. In addition, we also advise insurers regarding their options for handling other significant coverage issues, including when and how to negotiate, litigate, and raise legitimate coverage defenses without creating extracontractual exposure.

When disputes cannot or should not be resolved through other means, our attorneys regularly litigate insurance coverage issues under professional liability policies. Coverage issues where we have significance experience include whether a claim involves "professional services," policy rescission matters, allocation issues, bad faith litigation, and handling appellate matters where the insurer or its insured has already suffered an adverse ruling at trial.

We also assist insurers in policy underwriting and drafting advice. In this regard, Goldberg Segalla attorneys have assisted clients in drafting policy forms and endorsements for a wide range of professional liability policies, including media and technology policies, environmental professional policies, architects and engineers, and other miscellaneous professionals.

Representative Matters

We represented the insurer of a cyber charter school, which was sued in a class action over alleged violations of state law related to payment for enrolled students. In addition to filing a declaration judgment action in federal court, we also intervened in the underlying action to submit jury questions and ensure that any verdict would have an impact on the ongoing coverage litigation. After arguing coverage issues in both actions, the underlying class action and coverage action settled, with minimal payment provided by our client.

Our client's insured was sued in numerous whistle-blower lawsuits alleging that it engaged in fraudulent and deceptive business practices in collecting federal funds for numerous educational institutions the insured owned and managed. We were asked to represent the insurer in a federal lawsuit concerning insurance coverage for those underlying lawsuits. We asserted that the claims against the insured fell outside of the educators' insurance policy. In the end, we obtained dismissal of the case for our client, with no liability for defense and indemnification of the insured.

PROPERTY LOSS AND BUSINESS INTERRUPTION

Goldberg Segalla's team of property and business interruption attorneys understand that to best serve our clients, we need to do more than understand first-party property law. We understand the pitfalls and dangers that can abound in these kinds of claims, and the special challenges that natural disasters, such as hurricanes, tornados, and floods can present. Whether our clients are confronted with a suspicious fire or a thousand residential and commercial claims from a "CAT," we have the experience and commitment to provide proactive, cost-efficient, and goal-oriented assistance.

Our experience as lead counsel and coordinating counsel for several insurers with respect to Superstorm Sandy and Hurricane Matthew affords us the opportunity to cull the collective wisdom of our nationally recognized coverage, extra-contractual, and fraud attorneys who handle matters across the country. Our approach is always driven by one over-arching value, whether in a single homeowner's claim or a large commercial loss — to understand our clients' goals and work together to accomplish them.

The extraordinary scope of services we provide, which leads to exceptional value for clients, include:

- Attention to public relations and other strategic values; alignment of claim-handling processes and other company business units
- Identification of regulatory standards, with constant monitoring and updates
- Identification and recommendation of key experts in "real time" for claim-handling purposes and for litigation purposes
- Coordination of onsite activities where appropriate
- Analysis of coverage issues; drafting coverage analyses and reservation of rights letters
- Examinations under oath and use of various investigative resources
- Development of claim-review protocols to avoid extra-contractual risk
- Litigation, where necessary, including high-stakes cases
- Appraisal and alternative dispute resolution

Representative Matters

9/11 World Trade Center. Goldberg Segalla attorneys represented a domestic commercial property insurer in the World Trade Center Property Insurance Litigation. The case involved the scope of property insurance coverage for the lease-holder of the Twin Towers following the 9/11 attacks. The case, culminating in a four-month trial in the U.S. District Court for the Southern District of New York, resulted in a jury verdict in favor of the client and other domestic and international insurers. The jury found that the terrorist attack resulted from one occurrence under the applicable insurance forms. The case remains one of the largest and most significant insurance coverage disputes ever to be litigated in this country.

\$8 Million Arson Case Dismissed. Goldberg Segalla attorneys represented a commercial property insurer in a coverage/bad faith case that was filed in the U.S. District Court for the Western District of North Carolina. The case involved an \$8 million dispute over a commercial property insurance policy arising from a fire that destroyed a historic inn in Asheville, N.C. The jury found that the fire was intentionally set by the manager of the LLC that owned the inn. The LLC was the named insured on the policy. The significance of the case legally is that the manager who was found to have been involved in the arson was a minority member of the LLC. Thus, the majority shareholders

of the named insured LLC claimed a right to recover even if the jury found that there had been an intentional burning by the manager. On an issue with very little guidance in the nation, the court instructed the jury that the acts of the manager would be imputed to the LLC (and thus bar the entire claim) if the manager both participated in setting the fire and also exercised “substantial control” over the affairs of the LLC. The jury found in favor of the insurer on both issues, returning a complete defense verdict that was sustained on post-trial motions. All contractual and bad faith claims were dismissed. No appeal was taken.

Superstorm Sandy. Early in Superstorm Sandy litigation, by utilization of motion practice and reliance on Fed. R. Civ. P. 11, we secured agreement of the lead plaintiff’s firm to drop all state law extra-contractual claims against our clients.

Appellate Decision Protecting Privilege and Reserves. In this state court commercial property loss case arising from Superstorm Sandy, we secured an appellate decision that served as a primer on the treatment of privilege and reserves in first-party extra-contractual litigation. The appellate court declared reserves were not discoverable, stayed the extra-contractual claim, and remanded the case for in-camera review of privileged documents.

Novel Arguments to Defeat Ordinance Compliance. The insured, a bar owner, seeks business income and business personal property losses in connection with a period of shutdown resulting from a construction project to correct ordinance violations. We are advancing two novel arguments to defeat the claim. First, although certain losses stemming from the ordinance violations are arguably covered under the policy, the settling exclusion bars coverage in light of the policy’s anti-concurrent causation clause. Second, we contend this claim violates the fortuity requirement because the owner was aware prior to the inception of the policy that the construction project would commence during the policy period.

Roof Collapse Does Not Require State of the Art Reconstruction. When the roof of a 41-year-old ice rink in New England collapsed, the insured sought to rebuild the facility from the first brick, to “state of the art” standards. Our experts established that the insured was seeking far more than to “repair or replace.”

\$20 Million Fire Loss. The claim involved a fire at a 100-year-old warehouse in Chicago. The fire gutted the building. The policy had limits of \$20 million. The circumstances of the fire were very suspicious, the sprinkler system was disabled, and the fire occurred over a holiday weekend when the building was vacant. Goldberg Segalla supervised the cause and origin investigation, including working with cause and origin and sprinkler system experts, and developed facts that led to the conclusion that the increased hazard provision applied. The insurer denied coverage and litigation followed. The case settled for a favorable amount during discovery.

REINSURANCE

The reinsurance industry is constantly evolving, with a diverse and ever-changing range of issues. At Goldberg Segalla, our seasoned lawyers have a thorough understanding of the business of reinsurance and the needs of our reinsurance clients. While we are zealous advocates for our clients, some of our representative achievements have come via commutations that not only resolve the instant dispute, but also preserve the business relationship and avoid the cost of prolonged litigation.

The attorneys at Goldberg Segalla are on the front line of significant reinsurance claims involving reinsurers, ceding companies, managing general agents, brokers, intermediaries, and reinsurance pool managers. Our mediation, arbitration, and litigation practice extends across reinsurance agreements, both facultative and treaty. Tom Segalla, a founding partner of Goldberg Segalla, is the Editor-In-Chief of the *Reinsurance Professional's Deskbook, A Practical Guide*, published by Thomson Reuters and DRI.

In addition, we regularly team with cedents and reinsurers to resolve disputes involving the full range of reinsurance issues that exist throughout the world. We have experience with all classes of business, including property and casualty, life and health, and workers' compensation. Several of our attorneys are also ARIAS-U.S. certified arbitrators.

Some of our recent engagements have involved:

- Division of responsibility for actions of a managing general agent
- Representations made by a managing general agent
- Compliance with underwriting guidelines
- Calculation of attachment points for aggregate protections
- A reinsurer's duty of inquiry
- Pre-hearing security
- Various concerns arising from workers' compensation carve-out business
- The follow-the-fortunes doctrine
- Application of inuring reinsurance
- Various points arising between and among pool member, pool manager, and pool agents
- Choice of law concerning the issue of late notice
- Reformation/rescission/the duty of utmost good faith
- Claims administration
- Enforceability of arbitration clauses
- Audits and due diligence

Representative Matters

Goldberg Segalla attorneys were victorious in an arbitration dispute involving an attempt by a cedent to impose an indemnity obligation on its reinsurer that exceeded the reinsurance contract's absolute limit of liability.

Our attorneys represented a reinsurer involved in a dispute under a reinsurance contract involving Superstorm Sandy. We successfully resolved the case for our client, which concerned numerous complex issues, including whether certain losses were excluded by the reinsurance treaty's Named Storms for Winds and Flood exclusions.

We represented a Canadian insurer in negotiation of commutations with multiple London Market-based reinsurers regarding ceded claims arising out of U.S. environmental property insurance coverage litigation.

Our attorneys successfully litigated ceded reinsurance claims disputes on behalf of our client, an asbestos claims run-off insurer, in multiple federal court jurisdictions across the U.S.

We prevailed on behalf of a cedent in an arbitration involving French Market reinsurers arising out of U.S. property insurance claims.

RISK MANAGEMENT AND PREVENTION PROGRAMS

Most companies use insurance policies and other business relationships in an effort to achieve a comprehensive blanket of risk protection regarding their operations. While no risk management plan can truly be seamless, we help our clients reduce their risk by providing coverage analysis and recommendations tailored to their specific industry. We have guided policyholders and self-insured entities in analyzing risks and exposures, and assisted with the procurement and placement of insurance coverage. We have also advised policyholders on a wide range of complex risk management issues, and provided them with counsel in selecting and implementing proactive risk management programs.

Some of our more recent engagements include:

- Developing proactive internal protocols to monitor insurance compliance and implement risk transfer mechanisms

- Assessing whether current insurance and contracts adequately protect a company for all foreseeable risks in its specific industry

- Assessing insurance issues related to strategic business sales and acquisitions

- Advising companies on their entire insurance portfolio, including EPLI, liability, property, directors and officers, and other coverage

- Assessing overall insurance portfolio and impact of class actions, antitrust and securities claims

- Assisting in structuring captive insurance programs and reinsurance placement issues

- Partnering with brokers for proactive solutions to risk management

- Working collaboratively with insurers in drafting policy language

TRANSACTIONAL RISK INSURANCE

Parties to merger, acquisition, and divestiture transactions are increasingly using insurance products to close deals. Remaining at the forefront of the transactional liability insurance market, Goldberg Segalla is positioned to assist clients with these customized products. Our lawyers have specialized knowledge and experience with a suite of insurance solutions ranging from representations and warranties insurance to contingent liability and tax opinion liability insurance.

Goldberg Segalla's unique ability to synergize our complex insurance coverage practice with our corporate and transactional expertise allows us to efficiently assist our clients with both the fast-paced underwriting and policy drafting, as well as provide effective counsel throughout the claims process. Whether we are assisting in the due diligence review before closing, or evaluating coverage triggers or damages valuations once a claim is submitted, we offer practical advice to support our clients' objectives.

When coverage disputes turn adversarial, our experienced coverage lawyers provide counsel on matters of policy interpretation and advocate on our clients' behalf. Often representing insurers in state and federal courts, and various arbitral forums as required, our lawyers bring their legal acumen and team of subject matter experts to advocate on our clients' behalf and effectively resolve claims.

As the transactional risk insurance market continues to mature and the size of insured transactions expands, Goldberg Segalla is well-positioned to represent our clients in multiple capacities.

TRANSPORTATION COVERAGE

In any transportation coverage analysis, it is imperative to understand the relationship of the parties involved (vehicle/truck owner, lessor, lessee, trailer owner), as well as the contractual relationship and additional insured status of various parties. Often there are issues regarding property damage, underinsured motorist coverage, excess/primary insurance obligations, worker's compensation, permissive use, and scope of employment. All of this must be examined in conjunction with the extensive statutory and regulatory scheme governing commercial and personal transportation. If one thing is key, it is an understanding that a few key facts, technical knowledge, or statutory twist may mean the difference between success and failure when it comes to transportation insurance coverage issues.

Goldberg Segalla's Global Insurance Services Group includes a number of key partners who are national leaders in the area of transportation coverage. Between insurance policies and other business relationships, most companies involved in transportation are looking to achieve a seamless blanket of risk protection regarding operations. While no risk management plan can be truly seamless, we counsel clients in accomplishing this goal through coverage analysis and recommendations tailored to the industry. We work collaboratively with our insurer clients in drafting policy language. Our attorneys have experience in assisting policyholders and self-insured entities in analyzing risks and exposures, and assisting with the procurement and placement of insurance coverage. We have also advised clients on a wide range of complex risk management issues and have provided them with guidance in selecting and implementing proactive risk management programs.

Our attorneys are accomplished speakers and presenters in air, rail, and highway insurance issues. Our group also includes the editor of the renowned *Couch on Insurance* treatise and authors of the *Appleman on Insurance* treatise. Our attorneys have spoken all over the world on transportation insurance topics and are sought after as experts in the field of insurance.

Representative Matters:

Goldberg Segalla attorneys were retained to represent an aviation insurer in a coverage dispute with its insureds, two aviation companies. The companies were sued after the death of a boater, and injuries to another, when their boat struck power cables during a construction project. Our client was sued by another carrier after taking a no coverage position, and we obtained dismissal of the high-exposure case after our coverage position was upheld.

Goldberg Segalla attorneys successfully represented an insurer in a declaratory judgment action arising from a multi-party, multi-state rail loss where a rail broke free in one state and collided with a trail car in another. Several deaths occurred in one state, and several other injuries and property damage occurred in another. There were several layers of indemnity agreements and additional insurance. Through coverage litigation, we prevailed for our client on issues involving priority of coverage, scope of work, and indemnity.

Goldberg Segalla attorneys were retained by an insurer to provide advice, and recommended changes to their UM/UIM coverage and waiver forms issued to policyholders in Pennsylvania. We were retained because of our expertise in the Pennsylvania Motor Vehicle Financial Responsibility Law and recent court decisions affecting how insurers should prepare their coverage forms in compliance with the laws. We recommended suggested changes to the clients' forms, which will have a substantial impact on minimizing their exposure for UM/UIM claims going forward.

A trucking insurer retained us to file a declaratory judgment action, seeking to avoid coverage under a truck owner's underinsured motorist coverage, while at the same time attempting to show other

available coverage. We prevailed in the case despite complex legal hurdles, including party and insurer insolvency, and policy drop-down provisions.

After a plane crash occurred due to concurrent causes (pilot error and tower error), separate liability actions resulted in different outcomes on whether the pilot's conduct was grossly negligent. Our attorneys were retained by a carrier to devise a proactive coverage strategy, which resulted in an outcome most favorable to the coverage resolution.

After an aviation accident in the western U.S., our client's insured faced multiple personal injury and property damage lawsuits. Goldberg Segalla attorneys were retained by the aviation insurer. Following our deep investigation into the complex facts of the case, various policy provisions potentially implicated by the accident, and highly specific jurisdictional rules and case law, our analysis helped the insurer manage risk appropriately and position itself to preserve available defenses.