



Alan R. Lyons

Partner; Chair, Insurance & Reinsurance Group

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Alan Lyons is the chair of Herrick's Insurance & Reinsurance Group.

Alan has more than 20 years of experience advising insurers on insurance coverage and reinsurance issues, including insurance coverage litigations and arbitrations, drafting policies and reinsurance agreements, and advising on the development and structure of new insurance products.

Alan serves as national coverage counsel for insurers and risk retention groups, evaluating claims, preparing coverage opinions, and handling arbitration and litigation involving a variety of lines of insurance, including commercial general liability, commercial property, directors and officers liability, errors and omissions liability, employment practices liability, pollution, fine art, and cyber insurance policies.

Insurance Litigation and Arbitration

Alan is an accomplished litigator who regularly represents clients in complex coverage litigation in federal and state courts, and in arbitration venues regarding a wide range of coverage issues, including:

- Catastrophic losses arising out of natural disasters
- Pollution exclusions
- Environmental claims
- Construction-related coverage disputes
- Toxic tort litigation, including asbestos, lead paint and mold claims
- Priority of coverage among concurrent and consecutive insurers
- Allocation of risk and trigger of coverage
- Number of occurrences
- Late notice
- Coverage under additional insured endorsements
- Coverage under directors and officers liability policies for underlying shareholder class actions and derivative lawsuits
- Coverage under errors and omissions/professional liability insurance policies for underlying claims against broker-dealers and numerous other professionals
- Excess, bad faith, extra-contractual and punitive damage claims involving both first- and third-party coverage
- Employment discrimination, harassment and wrongful termination coverage
- Construction project builders' risk and liability policies
- Cyber insurance claims

Reinsurance

Alan regularly represents reinsureds and reinsurers in litigation and reinsurance arbitrations through to awards involving issues such as follow the fortunes/settlements, allocation disputes, the use and accounting of finite reinsurance, interpretation of warranty provisions, reinsurers' collateral obligations and the scope of contractual offset provisions.

Policy Drafting

Alan advises insurers and reinsurers regarding their policy and treaty language, and drafts insurance policies, endorsements and reinsurance agreements. His recent work in this area includes drafting several insurance policies for a European insurer's alternative risk transfer products covering areas such as political risks, professional liability, construction and nuclear energy. In addition, Alan develops and structures new insurance products, including preparing the necessary transactional documents, analyzing regulatory compliance matters, and forming captives and risk retention groups.

Services

- Insurance & Reinsurance
- Art
- Litigation
- COVID-19 Task Force and Resource Center
- Sports

Education

- College of Law, York, England (1994)
- University of Northumbria at Newcastle, England (1993)

Memberships & Associations

- New York State Bar Association
- Law Society of England and Wales

Matters

Legends - Majority Investment Transaction

Represented Legends Hospitality Holding Company, LLC ("Legends Hospitality") in majority investment by private equity firm Sixth Street in the global premium experiences company, co-founded by the New York Yankees and the Dallas Cowboys. As reported by Legends, "[t]he new investment from Sixth Street will support the long-term growth of the Company's global client relationships and further enhancements to its innovative 360-degree platform of premium experience offerings for the most iconic global brands in sports, entertainment, and attractions."

Herrick has represented Legends since its inception in 2008, when our Sports Law Group worked with the Cowboys and the Yankees, along with two private equity firms, to form this ground-breaking joint venture. Initially, Legends focused on delivering enhanced concessions and premium experiences. Since its formation, Legends' range of services has grown to include six worldwide divisions and it has partnered with many iconic international sports, entertainment and attractions brands.

Legends Hospitality - Control Interest Transfer

Represented long-standing client Legends Hospitality in its entry into a share purchase agreement with the private equity firm Sixth Street. Under the share purchase agreement,

Sixth Street acquired a controlling interest in Legends Hospitality. This investment will support Legends continued growth as a premium experiences company that specializes in delivering holistic solutions for sports, entertainment and attractions clients.

In connection with the acquisition, Legends Hospitality (i) issued senior secured long-term notes and (ii) entered into a revolving credit facility and PIK facility. The net proceeds were used to redeem certain outstanding equity securities of Legends Hospitality and for working capital and general corporate purposes.

In order to preserve Legends Hospitality's liquidity and support its continued investment in accretive, long-term capital projects, affiliates of Sixth Street and other third parties will provide Legends Hospitality with access to funding provided by an investment vehicle. The funding will be used for capital expenditures, pre-opening costs and other disbursements contemplated by contracts entered into by Legends Hospitality.

Insurance Coverage Dispute - Partial Summary Judgment Granted

Achieved partial summary judgment in favor of insurer client ruling that the "absolute pollution exclusion" in a commercial general liability insurance policy should be applied to exclude a claim of bodily injury caused by carbon monoxide in a home. The court found a question of fact as to whether an exception to the exclusion applied, and the case will proceed on that limited issue.

You can read more about this matter [here](#).

Real Estate Developer - Joint Venture

Represent major real estate owner and operator in the formation and organization of a title company.

Not For Profit - Pari-Mutuel Wager Matters

Represented a major sports franchise operator in connection with pari-mutuel wagering issues.

Legends Hospitality - MainGate Equity Acquisition

Represented Legends Hospitality Management, LLC in its [equity interest acquisition in MainGate, Inc.](#), a leading event retail and merchandise company. The acquisition will create a robust multi-channel retail and e-commerce platform to facilitate the connection between brands and fans.

Commercial Property Insurer - Summary Judgment Granted in Commercial Property Insurance Coverage Litigation

The Eastern District of Tennessee granted summary judgment to our client, a property insurer, in an insurance coverage dispute. The District Court held that the commercial property insurance policy at issue was void for lack of an insurable interest following the sale of the covered apartment building by the insured without notifying our client, the policy was not assignable without our client's written consent, and the purchaser was not an assignee or an intended third-party beneficiary of the policy. The purchaser appealed, however the Sixth Circuit Court of Appeals affirmed the decision by the Eastern District of Tennessee granting summary judgment to our client.

Commercial Liability Insurer - Third Department Affirms Summary Judgment in Favor of Herrick Client in Environmental Coverage Litigation

The New York Appellate Division Third Department affirmed the Supreme Court's dismissal of all claims against a liability insurer in an environmental coverage litigation brought by the State of New York, arising from a petroleum discharge from an upstate New York gas station. Agreeing that coverage was excluded under our client's liability policies, the court granted our motion for summary judgment while denying summary judgment motions brought by two

of the other liability insurers of the company that supplied petroleum to the station, which the State had claimed was the responsible discharger under the NY Navigation Law.

Insurance Coverage Dispute - Theft by Armored Car Executives

Represented a major national bank and its subsidiary in an insurance coverage dispute involving cash transported in armored cars. A unanimous New York State Appellate Division, First Department panel ruled in favor of our clients, finding that the "in transit" clause of the insurance policy also covers theft by the armored car company's executives while the money was in their vault as part of the contracted-for delivery process.

Reinsurance Company - Successful Prosecution of Malpractice Claims Related to Insurance Agreements

Successfully represented a prominent insurance managing agent and reinsurance company in their claims of legal malpractice against former counsel arising from insurance agreements prepared by the defendant, a New York-based insurance law firm.

Insurance Producer - Commission Dispute

Represented an insurance producer embroiled in an arbitration with a former client over unpaid commissions. The arbitration resulted in a recovery of over \$1 million.

Insurance Coverage Dispute - Commercial Property Insurance

Successfully represented an insurer in a dispute with a building owner over whether coverage existed under its commercial property insurance policy for over \$1 million in claimed property damage caused by an underground water supply line rupture.

Bermudian Reinsurer - Creative International Indemnity Plan

Represented a major Bermudian reinsurer in forming a limited medical benefit indemnity plan for members of an association which included reimbursement for in-patient hospital procedures, surgical benefits, doctor visits, emergency treatment, and accidental death and dismemberment benefits. We helped the reinsurer choose the most appropriate structure to reinsure the plan, drafted the necessary policy and treaty documentation, and analyzed pertinent regulatory issues.

Offshore Insurer - ERISA Stop-Loss Insurance

Advice to an insurer on providing stop loss insurance to large employers which provide group health insurance coverage to their retirees under self-funded welfare benefit arrangement plans (Section 419E plans under ERISA).

European Insurer - Customized Political Risk Coverage

Represented a major European insurer in designing and drafting an insurance policy covering political risks of an insured's non-European operations (for example, forced abandonment of a foreign country due to a governmental evacuation order). We drafted the policy to address the unique risks facing the insured, such as the potential loss of business income due to the cessation of the insured's operations of a railway in Africa. We also designed it to combine other risks such as pollution liability and coverage for the insured's construction projects.

European Insurer - Filling the Gaps

Represented a European insurer in drafting an insurance policy for a large French food product company with worldwide operations. The policy covers certain risks not covered by the insured's other insurance policies, such as business interruption losses arising from an act of terrorism resulting in the contamination of the insured's food products.

European Insurer - Chunnel Policy

Represented a European insurer in structuring an aggregate declared risk capacity contract under which the insurer will provide insurance capacity to one of the world's leading

engineering and construction companies for certain lines of insurance, including a cost overrun insurance program for the Channel Tunnel Rail Link.

Housing Authority Risk Retention Group - Pollution Exclusion Coverage Litigation

Represented a risk retention group in litigation against a housing authority over whether an insurance policy excluded a judgment against the housing authority for exposure to pollution. In a case of first impression under Illinois law, the 7th Circuit Court of Appeals ruled in favor of our client, holding that the absolute pollution exclusion excluded coverage for an underlying \$10 million judgment against the insured based upon exposure to pollutants, even though the insured did not actively cause the pollution, and even though the pollution originated off-site and migrated to the insured's property. (Housing Authority Risk Retention Group, Inc. v. Chicago Housing Authority, 378 F.3d 596 (7th Cir. 2004))