



Thomas M. Contois

Partner

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For nearly 20 years, Tom has represented insurance carriers in coverage and bad faith disputes in trial courts and arbitrations in North and South Carolina, Alabama, California, Georgia, Florida, Kentucky, Louisiana, New York, Pennsylvania, Texas and Virginia.

Tom's practice focuses primarily on first-party commercial property, inland marine and builder's risk coverages. He handles matters arising out of catastrophe losses, including those resulting from Hurricanes Matthew, Katrina, Wilma and Ike and Superstorm Sandy; earthquake, settlement and other earth movement losses; fire losses, including arson claims; corrosion claims; and others. His experience with builder's risk claims includes issues relating to coverage for design defects under the LEG3 endorsement.

Tom also advises carriers with respect to their obligations and the coverage issues presented by a variety of third-party liability policies, including both occurrence-based and claims-made-and-reported coverages. He counsels carriers on and litigates issues arising under commercial general liability policies, errors and omissions policies, pollution legal liability policies, employment practices liability policies and excess and umbrella coverages.

In addition to coverage issues, Tom's work with carriers has frequently included defending against bad faith and other extra-contractual claims.

Representative Matters

- Represented a market group of insurers in connection with a claim under builder's risk policies for losses resulting from a design defect in a marine bulkhead that was part of the foundation of a \$200 million hotel development project.
- Represented carrier in connection with earth movement claim at a student living facility which resulted in property damage to a residence building, pool and clubhouse, and claims for time element losses extending over two school years.
- *American Property Ins. Co. v. Wynbrooke Homeowners' Ass'n, Inc.*, (U.S. District Court, District of South Carolina, Civil Action No. 4:17-cv-03000-RBH). Represented insurance carrier in federal court in South Carolina in case arising out of claim by condo association asserting roof damage to 67 buildings resulting from Hurricane Matthew.
- Advised an insurer on coverage issues arising from a claim for building collapse resulting from the failure of roof trusses.



- Advised an insurance market on coverage issues relating to the reconstruction of a structure after a fire loss, including ADA and state building code compliance.
- Advised an insurer on coverage issues arising under an aviation hull policy resulting from a prop strike and engine damage.
- Advised a mutual insurance company on proposed revisions to a policy form providing coverage for expenses and other losses resulting from electronic data breaches and other improper disclosures of protected information.
- *ARE-East River Science Park LLC v. Lexington Insurance Co.* (U.S. District Court, Central District of California, Civil Action No. 2:13-cv-01837). Represented an insurance carrier through trial in federal court in California in a dispute arising out of a Superstorm Sandy claim over the application of the Named Storms deductible.
- *Fiserv Solutions, Inc., et al. v. XL Specialty Ins. Co.* (Supreme Court of New York, Index No. 601096/09). Represented an insurance carrier in New York state court against hundreds of claims by multiple lenders arising out of a policy that insured the accuracy of valuations of residential real estate being used to secure home equity loans.
- *Board of Trustees of the Galveston Wharves v. Lexington Ins. Co., et al.* (10th Judicial District Court, Galveston County, Texas, Case No. 11-CV-1330). Represented an insurance carrier in Texas state court in a multimillion-dollar claim alleging that the Port of Galveston suffered flood and storm surge damage as a result of Hurricane Ike.
- Served as international coordinating counsel for a major carrier for claims arising out of the earthquake and tsunami in Japan in March 2011. Supervised counsel in Europe and Japan to provide a consistent and coordinated response to common claims issues, including those arising out of Master/Local coverage programs. Prepared analysis of various coverage issues under carrier's form and manuscript forms of various major brokers, including contingent business interruption, power outage, civil authority, nuclear hazards and others. Created a claims handling guide for use by front line adjusters addressing these issues.
- *Pyramid Hotel Opportunity Venture LLC v. Lexington Ins. Co.* (17th Judicial District, *Broward* Co., Florida, No. 07-3236 (07)). Represented an insurance carrier through a seven-week trial in Florida state court in a multimillion-dollar claim arising out of wind and flood damage caused by Hurricanes Katrina and Wilma to a hotel in Ft. Lauderdale.
- *Strouse Greenberg Properties IV LP v. Lexington Insurance Co.* (Civ. Dist. Ct. Parish of Orleans, State of La. No. 2007-8378). Represented an insurance carrier through trial in Louisiana state court in New Orleans in a multimillion-dollar claim arising out of wind and flood damage caused by Hurricane Katrina to an apartment complex in New Orleans East.
- *Toll Naval Assoc. v. Lexington Ins. Co.* (U.S. District Court, Eastern District of Pennsylvania, Civil Action No. 03-CV-6537). Represented an insurance carrier in a multimillion-dollar claim arising out of an arson fire at a historic structure in Philadelphia.
- Represented a major carrier in a confidential arbitration proceeding in which the insured sought coverage for pollution cleanup costs at hundreds of locations. The insured was a major lender for commercial real estate loans; the policy provided that if loans defaulted and the real estate securing the loans was contaminated, the carrier would pay the lesser of the cleanup costs or loan balance.



- *Key3Media Group, Inc., v. Commerce and Indus. Ins. Co.* (Sup. Ct. State of Ca. County of Los Angeles, Case No. BC278751). Represented an insurance carrier in a multimillion-dollar claim for business interruption losses stemming from the terrorist attacks of 9/11.
- *Legend Asset Management v. Lexington Ins. Co.* (Texas state court, Austin, TX, Suit No. NYBG-04016). Represented an insurance carrier in a multimillion-dollar claim asserting damage to seven apartment complexes in Texas allegedly due to soil movement.

Before Fox Rothschild

Tom was previously of counsel at Smith Moore Leatherwood LLP, which combined with Fox Rothschild in 2018.

He was also previously a partner in the Washington, DC office of a large international firm. He also formerly served as a trial attorney with the U.S. Department of Justice Civil Rights Division, in the Disability Rights Section, the office charged with enforcing Titles II and III of the Americans With Disabilities Act. Additionally, he served a two-year clerkship to the Honorable Sam D. Johnson of the U.S. Court of Appeals for the Fifth Circuit.

Beyond Fox Rothschild

Tom is a member of the Loss Executives Association and has presented at the Property & Liability Resource Bureau Claims Conference. He is a member of the Insurance Law Section of the North Carolina Bar Association and of the Torts and Insurance Practice Section of the South Carolina Bar.

Practice Areas

- Litigation
- Insurance

Bar Admissions

- North Carolina
- South Carolina
- District of Columbia

Education

- Duke University School of Law (J.D.)
- Duke University

Memberships

- North Carolina Bar Association
 - Insurance Law Section
- South Carolina Bar
 - Torts and Insurance Practice Section
- Loss Executives Association
- Property Loss Research Bureau