

# Insurance Coverage and Risk Transfer

Insurance issues are inherent in all construction-related legal matters. Accordingly, risk transfer and insurance coverage issues consistently dictate the financial resolution of litigated claims, and proficiency in insurance coverage and risk transfer is critical to the zealous defense of any construction-related legal dispute. Our construction clients rely on our ability to draft and negotiate sound contract terms and insurance provisions to manage risk, and on our aggressive litigation tactics to protect their financial interests when disputes arise regarding insurance coverage.

The attorneys on our Insurance Coverage and Risk Transfer team possess significant knowledge in the areas of insurance coverage and risk transfer as well as the industry acumen required to advise our construction clients regarding all insurance-related matters. For more than 20 years, our team has provided advice and representation with respect to contract drafting, insurance policy interpretation and coverage evaluation for single-incident and long-tail construction-related issues, and our litigators have successfully represented clients in declaratory judgment actions to enforce their expectations as guaranteed by the terms of their contracts.

## Risk Transfer

Risk transfer shifts responsibility from one party to another. Construction contracts that contain insurance procurement provisions and hold harmless agreements defining the duties and obligations of downstream subcontractors are critical to risk management on any project. These terms must be specific and legally compliant in order to guarantee the fulfillment of the parties' intent in the event of a claim or lawsuit. Our team has advised clients regarding terms of hundreds of construction contracts. Our attorneys' vast experience and intimate knowledge of the construction industry allow us to provide key insights regarding appropriate contract terms and to protect our clients' financial interests and while accurately reflecting their intent.

Successful risk transfer depends not only on the sufficiency of the relevant construction contract terms but also on the terms of the insurance contracts procured by all of the relevant parties. Our team is highly-experienced in reviewing and assessing the hundreds of policy forms and endorsements that govern whether insurance applies to a given loss. In addition to our contract negotiators and litigators, our team also includes attorneys who are intimately knowledgeable about the underwriting and claims processes and who have evaluated coverage on hundreds of claims nationwide.

Our team reviews each and every case for risk transfer potential upon assignment effectuates tender for all potentially-responsible insurers and aggressively pursues acknowledgment of coverage, especially the duty to defend. Once risk transfer is achieved, our established risk transfer protocol is designed to maintain protection for our clients by ensuring that the defending insurance carrier expressly defines the scope of the defense and

indemnity and guarantees representation free of conflict.

## Insurance Coverage Litigation/Declaratory Judgment Actions

When a liable party refuses to acknowledge the duties and obligations prescribed by the relevant contracts, a declaratory judgment action may be appropriate. In this situation, the litigators on our team act quickly to initiate legal action in order to enforce the contract terms and preserve our client's intent. Our aggressive litigation strategies and insurance coverage acumen have resulted in savings to our clients and their insurance carriers of over \$20 million in indemnity payments and \$5 million in defense costs in the past five years alone.