



Michael J. O'Malley

Partner

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Michael O'Malley handles a range of matters involving insurance coverage, general liability defense, complex commercial disputes and appeals. An experienced insurance coverage attorney, Michael represents domestic and foreign insurers in insurance coverage matters and litigates insurance coverage and bad faith actions on a number of lines of insurance, including general and professional liability.

In 2017, Michael was seconded to a lead Lloyd's of London syndicate, where he advised adjusters and in-house counsel on insurance coverage issues and assisted with drafting insurance policies. Michael also has lectured across the country and in London on matters involving bad faith, coverage issues, federal procedure and claims handling.

In addition, Michael has represented Fortune 500 companies and emerging growth companies across the United States and is recognized by his clients as an aggressive advocate. Michael has won numerous motions for summary judgment and appeals that have resulted in published decisions in multiple states. He also has worked on a number of trials in Illinois, New York, New Jersey and the Southern District of New York.

Education

- The George Washington University Law School (J.D., 2009)
- Vanderbilt University (B.A., 2003)
 - cum laude

Bar Admissions

- Illinois, 2012
- New York, 2010

Services

- Appellate
- Commercial Litigation
- Complex Tort & General Casualty
- Construction
- e-Discovery
- Insurance & Reinsurance Coverage
- Insurance & Reinsurance Defense
- Product Liability, Prevention & Government Compliance
- Professional Liability & Services
- Railroad
- Transportation

- New Jersey, 2009

Court Admissions

- U.S. Court of Appeals, Seventh Circuit
- U.S. District Court, Northern District of Illinois
- U.S. District Court, District of New Jersey
- U.S. District Court, Southern District of New York
- U.S. District Court, Eastern District of New York

Publications

June 5, 2024

Seventh Circuit Finds Access or Disclosure Exclusion Bars Coverage for BIPA Claims

May 22, 2024

Illinois Legislature Passes Amendment to BIPA to Respond to Plaintiff-Friendly Decisions by Illinois Supreme Court

June 28, 2023

Seventh Circuit Holds Insurer Must Defend BIPA Lawsuit: Broad Violation-of-Statutes Exclusion Creates Ambiguity

February 28, 2023

Illinois Supreme Court Expands Private Entities' Exposure to Liability & Damages

February 9, 2023

Illinois Supreme Court Holds Five-Year Statute of Limitations Applies to All Causes of Action Alleging Violations under All Sections of BIPA

April 29, 2022

Northern District of Illinois Decisions Find Access or Disclosure Exclusion Precludes Coverage for BIPA Claims, Creating a New Split in the District

December 15, 2021

Seventh Circuit Issues Four Coordinated Decisions Finding No Coverage for COVID-19 Losses

October 13, 2021

North Carolina Federal Court Finds No Duty to Defend Illinois BIPA Suit

Client Wins

Summary Judgment in Case Involving Lost Business Income Tied to Pandemic

Michael O'Malley (Partner-Chicago), Michael Harowski (Partner-New Orleans) and Dominik Cvitanovic (Associate-New Orleans) obtained summary judgment in favor of Certain Underwriters at Lloyd's, London (Underwriters) in connection with an insurance coverage dispute in Louisiana state court for lost business income arising from the COVID-19 pandemic. The judge rejected the reasoning of a recent appellate decision that found in favor of coverage and instead found coverage had not been triggered because the insured was unable to demonstrate that it sustained direct loss of or damage to property. Louisiana is only one of three states in the nation with appellate law finding losses arising from COVID-19 could trigger business income coverage under a commercial property policy. During the summary judgment briefing, a Louisiana appellate panel issued a decision in a case that involved an identical claim against Underwriters for COVID-19, finding the same policy language involving "loss of or damage to property" was ambiguous and construed the ambiguity in favor of coverage. After a lengthy oral argument, the court ruled from the bench, rejected the reasoning of the other appellate court and found that such COVID-19 losses did not constitute "loss of or damage to property."

The decision is significant because it lays the foundation for a circuit split within Louisiana, and because attorneys, policyholders, insurers and judges nationwide have been following each of these cases closely as the total business income losses arising from COVID-19 is estimated to be in the trillions of dollars globally.