



## Siobhán A. Mueller

Of Counsel

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Siobhán A. Mueller concentrates her legal practice on insurance coverage and defense litigation.

Siobhán has vast experience in the area of insurance coverage, notably acting as coverage counsel for leading primary and excess domestic and international insurers with respect to complex insurance coverage matters. Areas of specialization include, but are not limited to, directors and officers liability, errors and omissions liability, lawyers professional liability, employment practices liability, cyber liability and miscellaneous professional liability.

Siobhán also has experience acting as defense counsel to insurers in complex insurance coverage litigations in state and federal courts nationwide. She has litigated bad faith claims in numerous jurisdictions. Further, Siobhán represents lawyers in legal malpractice cases, corporate directors and officers of large and small companies, and entities in data breach class actions, among others.

Siobhán's practice evaluates all aspects of claim analysis, settlement valuation and litigation assessment, focusing on prompt exposure reporting and efficient resolution.

### Education

- Thomas M. Cooley Law School (J.D., *cum laude*, 2011)
  - Scholarly Writing Editor, Thomas M. Cooley Law Review
- College of the Holy Cross (B.A., 2008)

### Bar Admissions

### Services

- Directors & Officers Liability
- Insurance & Reinsurance Coverage
- Insurance & Reinsurance Defense
- Professional Liability & Services
- Class Action
- Cybersecurity & Data Privacy
- Government Investigations
- Contractual/Extra-Contractual Liability Litigation

- New York
- New Jersey

### **Court Admissions**

- U.S. District Court, Southern District of New York
- U.S. District Court, Eastern District of New York
- U.S. District Court, District of New Jersey

### **Awards & Honors**

- Selected for inclusion in The Best Lawyers in America® Ones to Watch™, 2023-2025

## **Publications**

Q1 2026

**Directors & Officers Liability Insurance in 2026: Market Stability Amid Evolving Risk Coverage Matters**

June 26, 2024

**The Ever-Evolving World of Cyber Coverage**

April 19, 2022

**California Federal Court Rules No Duty to Defend Opioid Lawsuits**

October 11, 2021

**Daily Journal Publishes White and Breen on COVID-19 Business-Related Insurance Claims in Ninth Circuit**

*Daily Journal*

April 16, 2021

**Journal of Texas Reprints White and Breen Article on Insurance Implications of COVID-19**

*Journal of Texas: Winter 2020-2021 Volume*

January 8, 2021

**California Federal Court Dismisses Claim Against Broker for Alleged Failure to Procure Business Interruption Coverage for COVID-19**

August 25, 2020

**Texas Federal Court Rules No Coverage for COVID-19 Losses**

August 25, 2020

**California State Court Grants Demurrer in Favor of Insurer: COVID-19 Does Not Constitute Physical Loss**

August 24, 2020

**COVID-19 Business Interruption Coverage Decisions**

August 14, 2020

**Missouri Court Denies Insurer Motion to Dismiss, Finding Insured Plausibly Pled COVID-19 Claims within Terms of Commercial Property Policy**

August 14, 2020

**DC Court Rules COVID-19 Closure Orders Are Not “Physical Loss”**

July 27, 2020

**Update: California Legislation to Include “Rebuttable Presumptions” Supporting COVID-19 Business Interruption Coverage**

July 23, 2020

**Michigan Judge Rules Direct Physical Loss Required to Trigger Business Interruption Coverage**

June 19, 2020

**Update: Legislation for Business Immunity from Civil Liability for COVID-19 Claims Is Trending**

June 18, 2020

**Legislation for Business Immunity from Civil Liability for COVID-19 Claims Is Trending**

May 27, 2020

**State Insurance Commissioners Issue Notices Regarding Business Interruption Coverage**

May 1, 2020

**House Proposes “Reinsurance Backstop” to Cover Insurance Industry Losses Due to Pandemic-Related Claims**

April 20, 2020

**South Carolina Joins States Proposing Legislation to Mandate Insurers Pay COVID-19 Losses**

April 2020

**The Impact of the Global COVID-19 Pandemic on the Insurance Industry**

*DRI: For the Defense*

April 14, 2020

**Update: Pennsylvania Joins States Proposing Legislation to Require Insurers Cover COVID-19**

April 8, 2020

**Update: Louisiana Joins States Proposing Legislation to Require Insurers to Cover COVID-19**

April 7, 2020

**33 Members of California Congressional Delegation Ask CA Insurance Commissioner to Ensure Access to Business Interruption Insurance**

April 2, 2020

**Update: New York Joins States Proposing Legislation to Require Insurers Cover COVID-19**

March 30, 2020

**New Jersey, Ohio and Massachusetts Legislatures Attempt to Mandate Eradication of “Virus Exclusion” in Business Interruption Policies**

March 25, 2020

**NYDFS Instructs Insurers to Provide Coverage Information and Explanation of Benefits Regarding COVID-19**

## Client Wins

**Boone, Mueller, and Lang Secure Complete Dismissal in Legal Malpractice Case**

Richard W. Boone Jr. (Partner-New York, NY), Siobhán A. Mueller (Of Counsel-New York, NY), and Kieren R. Lang (Associate-New York, NY) secured a complete victory in the Supreme Court of the State of New York, New York County, obtaining dismissal of all claims against their client, a respected law firm. The court held that the client firm could not be held liable for malpractice because it never represented the plaintiff, and because a lawyer’s past conduct cannot be imputed to a new firm joined after the alleged wrongdoing occurred. The plaintiff had named the client firm solely because his former attorneys later joined it – long after their representation had ended.

In support of the motion to dismiss, Rich, Siobhán, and Kieran argued that all claims against the client firm must fail because it had no involvement in the underlying dispute and, as such, the plaintiff never had an attorney-client relationship with the firm. The team further maintained that the plaintiff’s claims were based on speculation, conclusory allegations, and impermissible second-guessing of the attorneys’ legal strategies, and therefore did not rise to the level of actionable malpractice, fraud, or a violation of the Judiciary Act, as alleged. The court agreed with Wilson Elser’s arguments, granting the motion to dismiss.

**Boone and Mueller Prevail on Motion to Dismiss in Lawyer’s Malpractice Case in NY Supreme Court**

Richard W. Boone Jr. (Partner-New York, NY) and Siobhán A. Mueller (Of Counsel-New York, NY) recently prevailed on a CPLR 3211 motion to dismiss in New York Supreme Court in a legal malpractice case brought by a union member against the attorney retained by the union to represent the plaintiff in an arbitration hearing conducted pursuant to a collective bargaining agreement (CBA). In their motion to dismiss, Rich and Siobhán argued that all claims against the attorney must be dismissed as barred under well-settled precedent holding union lawyers immune from malpractice suits brought by union members. They also argued that plaintiff’s claims should be dismissed because (1) their

client had no attorney-client relationship with the plaintiff, (2) the plaintiff did not allege facts sufficient to establish any breach of the standard of care, and (3) the plaintiff's claim was untimely under the applicable statute of limitations. The court agreed and dismissed the case against our client, holding a "cause of action for malpractice cannot be maintained as against an individual attorney hired by the plaintiff's union to handle a disciplinary proceeding under the union's CBA." Rather, "a plaintiff is limited to bringing an action against the union for breach of the duty of fair representation because, in that instance, the plaintiff's malpractice claims are preempted by federal labor law, as those claims arise out of defendant attorney's representation of the union during the plaintiff's disciplinary proceedings under the union's CBA."

### **Boone and Mueller Prevail on Motion to Dismiss in Lawyer's Malpractice Case**

Richard W. Boone Jr. (Partner-New York, NY) and Siobhán A. Mueller (Associate-New York, NY), recently prevailed on a CPLR 3211 motion to dismiss in Westchester Supreme Court in a case involving alleged violation of Judiciary Law § 487, fraud and declaratory judgment against our client lawyer and his firm. The clients served as legal expert in an underlying divorce proceeding, and the plaintiff alleged that they made false representations in an affidavit filed with the court as part of an imagined scheme to disparage the plaintiff before the court in connection with a custody hearing. The court agreed with Richard and Siobhán's arguments, and dismissed the Judiciary Law § 487 claim because "the alleged representations and conduct complained of were well within the bounds of the adversarial proceeding and do not appear to be outrageous or egregious" and, therefore, the plaintiff's factual allegations did not support a cause of action under the statute. The court further reasoned that "an attorney's assertion of unfounded allegations, even if made for an improper purpose, does not provide a basis for liability under Judiciary Law 487." The court also dismissed the fraud claim because the plaintiff failed to allege details "indicating that defendants made a misrepresentation for the purpose of inducing the plaintiff's reliance thereon or that the plaintiff justifiably relied on the misrepresentation to his detriment." The plaintiff, instead, made "conclusory assertion[s] that he reasonably relied on the defendants' alleged misrepresentations." Lastly, the court dismissed the declaratory judgment claim because the plaintiff failed to allege facts showing the existence of a justiciable controversy. The matter is presently on appeal in the Second Department.

### **Another Significant Insured v. Insured Exclusion Decision for Sheiffer, Boone, and Mueller**

Richard W. Boone Jr. (Partner-New York, NY), David Sheiffer (Partner-New York, NY), and Siobhán A. Mueller (Associate-New York, NY), recently prevailed on a Rule 12(b)(6) motion in the U.S.D.C. for the Southern District of New York, where the Court again strictly enforced the insured versus insured exclusion ("IvI Exclusion") in the at-issue policy (the "Policy"), despite an allocation clause requiring defense costs to be paid when covered and uncovered claims are made.

That decision, which applied Kentucky law, stemmed from the same underlying lawsuit and Policy that was at issue in a prior case where Boone and Sheiffer, with the assistance of Lysie Rust (Partner-Louisville, KY), prevailed on the same issue in the U.S.D.C. for the Eastern District of Kentucky, which was affirmed by the United States Court of Appeals for the Sixth Circuit.

As in the prior suit, several underlying lawsuits asserting direct and derivative claims had been filed by certain shareholders against certain directors and officers of the insured, a family-owned global agricultural fencing and equipment supplier, charging violations of RICO and price gauging in the sale of products by the insured and affiliated companies to companies controlled by the defendant directors and officers. In the underlying litigation, the court had described the corporate structure of the family-controlled companies as “exceedingly complex.”

In response to the prior suit, our client, despite having issued a duty to defend, declined coverage on the basis that, among other things, one of the individual plaintiffs qualified as an insured under the terms of the Policy, thereby triggering the Ivl Exclusion. The Kentucky District Court agreed, dismissing the coverage action in its entirety, and was later affirmed by the Sixth Circuit. Notwithstanding, a second insured defendant named in the underlying actions later sought coverage, which our client declined for the same reasons. This insured then filed a second coverage action, this time hoping for a different result in the Southern District of New York.

In so doing, while noting the result in the prior Kentucky case, the insured argued that the Policy’s Ivl Exclusion was inapplicable because “the purpose of an [Ivl] Exclusion is in no way served by excluding coverage for [the insured], who is neither a family member, director, or officer of the [insured company].” Notwithstanding, as before, the insured argued that because the Policy contained an allocation clause which required a defense when both covered and uncovered claims were present and because the plaintiffs in the underlying actions included entities that were not within the Ivl Exclusion, the carrier was obligated to defend. However, Judge Valerie Caproni disagreed, holding that the Ivl Exclusion barred coverage for the underlying actions, in their entirety.

Before reaching the insured’s allocation clause arguments, however, the Court first addressed the “assistance exception” in the Ivl Exclusion, which preserves coverage for a “Claim” otherwise excluded from coverage by the Ivl Exclusion if it was “brought by any security holder of the Company” and the security holder “is acting totally independently of, and without the solicitation, assistance, active participation or intervention of, the Company or any Insured Person.” The Court noted that this provision did not preserve coverage because “it is undisputed that Ms. Tarter Smith (an insured) spearheaded the litigation from its inception.”

The Court then considered the Policy’s allocation clause, which the Court concluded “does not change this analysis.” Under the Policy’s allocation clause, the insurer was specifically required to provide a full defense if a “Claim” includes “both covered and uncovered matters” or if it is made “against any Insured and others.” However, as the Court noted, the allocation clause “does not expressly address claims brought by an insured and others.” Rather, “[s]uch claims are expressly governed by the Ivl Exclusion, which bars coverage for the underlying litigation as a whole unless the Assistance Exception applies.” Accordingly, the Court held that the Ivl Exclusion barred coverage for the Claim in its entirety.

Significantly, in so holding, the Court did not entirely rely on the holdings in the prior

Kentucky litigation. Instead, the Court reviewed decisions involving similar Ivl Exclusions throughout the United States. Accordingly, although decided under Kentucky law, this decision arguably has broader significance for the interpretation of similar Ivl Exclusions in the Southern District of New York and perhaps beyond.

In this regard, we note that the matter is also presently on appeal to the United States Court of Appeals for the Second Circuit, Case No. 23-17.