

Tamara Smith Holtslag

Partner

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Practices

Business Litigation
General Litigation
Insurance Coverage and Bad Faith Litigation

Bar Admissions

Commonwealth of Massachusetts
State of New Hampshire
United States Court of Appeals for the First Circuit
United States District Court for the District of Massachusetts
United States District Court for the District of New Hampshire

Education

Suffolk University Law School, J.D., 1996
University of New Hampshire, B.A., *cum laude*, 1993

Overview

Tamara is a civil litigator and insurance coverage lawyer. Over the past 25 years, she has developed a particular expertise in handling complex insurance matters and insurance coverage litigation, advising clients on insurance coverage and best claims handling practices, and defending professional liability and various business and contract claims. She represents clients in the courts of Massachusetts and New Hampshire, including the state business courts and federal courts, and in private arbitration. She has extensive experience representing insurers in declaratory judgment actions involving interpretation of policy language and determinations of coverage. Tamara has successfully appealed matters before the Massachusetts Appeals Court and the First Circuit Court of Appeals. Tamara counsels clients daily on insurance coverage issues, avoidance of bad faith claims, and other issues of insurance contract interpretation that often implicate the laws of various states across the nation.

Tamara and others in the firm have been closely tracking the many insurance coverage cases that have been filed across the country, particularly in the context of business interruption claims, in the wake of the Covid-19 pandemic. Thus far, and while each case depends on its own facts and policy language, the early decisions in various jurisdictions largely find for the insurers, and hold that business interruption coverage for Covid-19 losses is not afforded. Tamara recently wrote an article on this point that will be featured in February 2021 edition of the *New Hampshire Bar News*. Tamara is also working on various projects relating to the intersection of Insurance and the Gig Economy, and spoke on these issues before the New Hampshire Bar Association in November 2018 and at the American Bar Association's 27th Annual Midyear Meeting of the Tort and Insurance Practice's Insurance Coverage Litigation Committee in Phoenix, Arizona in February 2019.

Tamara is a frequent speaker on insurance coverage issues for the benefit of her clients and fellow practitioners. She is also the Chair of the Insurance Law Section (2013 – present) of the New Hampshire Bar Association, a position that she has continually held since she petitioned the NHBA to establish the Insurance Law Section in 2012.

Affiliations

- Founder and Chair, Insurance Law Section, New Hampshire Bar Association (May 2013-Present)

- Boston Bar Association
- Women's Bar Association
- Massachusetts Bar Association
- American Bar Association

Articles & Seminars

- Faculty (upcoming), New Hampshire Bar Association's CLE: "*Insurance Law 2021*," May 6, 2021, live webcast.
- Faculty, American Bar Association, 27th Annual Midyear Meeting of the Tort and Insurance Practice's Insurance Coverage Litigation Committee: "*Developments in InsurTech and Insurance Coverage Issues Presented by the Sharing/Gig Economy*," February 21-23, 2019, Phoenix, Arizona.
- Faculty, New Hampshire Bar Association CLE: "*Emerging Insurance Risks & Business Concerns in the Sharing Economy*," November 7, 2018, Concord, NH.
- Faculty, New Hampshire Bar Association CLE: "Auto and Uninsured Motorist Insurance in New Hampshire," April 13, 2017
- Faculty, New Hampshire Bar Association CLE: "Cyber Liability & Data Breach from the Insurance & Business Perspective," September 2015
- Faculty, Boston Bar Association Seminar: "Common Coverage Issues: Or Everything You Need to Know About Insurance Before You Are Sued," May 2015
- Faculty, Willis 9th Annual Managed Care Organization/Pharmacy Benefit Manager Roundtable Roundtable: "High Octane Coverage Issues in Managed Care E&O" in Chicago, Illinois, October 2014
- Faculty, New Hampshire Bar Association Annual Meeting: "Insurance Law Update," 2013
- Faculty, MCLE's 15th Annual Employment Law Conference, 2012
- *New Medicare Secondary Payer Act Has Teeth: How to Protect Your Clients*, *New Hampshire Bar News*, December 2011
- *Mandatory Reporting Under Section 111 of the Medicare, Medicaid and SCHIP Extension Act of 2007 (MMSEA) in the Employment Law Context*, MCLE, Employment Law Conference, 2012
- *Vicarious Liability: Let the Master Answer*, American Academy of Orthopedic Surgeons, June 2007

Representative Cases

- *Mary Alexandre v. National Union Fire Ins. Co. of Pittsburgh, PA* (D. Mass. 2021) (Obtained summary judgment ruling in favor of insurer client in federal court, holding that claim administrator's decision to deny AD&D benefits under an ERISA plan was supported by the substantial evidence in the record, and that its decision was neither arbitrary, capricious nor an abuse of discretion; the case concerned the definition of "Injury" in the Plan and the correct disclaimer of benefits under the Plan's "Intentional Self-Inflicted Injury" Exclusion, as well as the appropriate framework utilized by the First Circuit when interpreting the term "accident" in AD&D insurance policies.)

- *Ark Underwriting v. Lexington Insurance Co.*, (D. Mass. 2020) (Obtained summary judgment for insurer in federal court on issues relating to additional insured coverage, where court found firm's client did not have an obligation to defend or indemnify contractors on a large Boston-based project as they did not qualify as additional insureds. Partial Motion for Reconsideration pending).
- Resolved large insurance coverage dispute for commercial insurer client in which coverage for underlying claims against a healthcare company were in dispute; case involved issues of insured cooperation, notice to the insurer, and lack of coverage for the type of claims and damages alleged under a manuscript policy.
- *Philadelphia Indem. Ins. Co. v. National Union Fire Ins. Co. of Pittsburgh, PA*, (Suffolk Superior, 2017) (summary judgment granted for client in coverage action interpreting Employer Liability/Worker's Compensation Policy).
- *Iodice Family Limited Liability Company d/b/a Look Ahead and Haley Charest as Assignee of Iodice Family Limited Liability Company d/b/a Look Ahead v. The Commerce Insurance Company and Western World Insurance Company* (N.H. Super. Ct. No. 217-2015-CV-00126)(obtained summary judgment for client on various coverage grounds).
- Resolved multi-million-dollar insurance coverage fee dispute for commercial insurer client; case in Arbitration concerned the defense of an underlying antitrust action against large healthcare company.
- Obtained voluntary dismissal of insurance coverage suit brought against insurer client seeking over \$1 million in damages. The case involved "related claims" issues in the claims-made insurance context.
- *Lexington Ins. Co. v. United Health Group Inc., United Health Group Incorporated et al.* (D. Mass. 2011)(obtained summary judgment for client in an insurance coverage action alleging over \$28 million in damages under claims made managed care organization liability policy).
- *National Union Fire Insurance Co. of Pittsburgh v. Lumbermens Mutual Casualty Co.*, 385 F.3d 47 (1st Cir. 2004)(persuaded the First Circuit Court of Appeals to rule in favor of client, who insured a general contractor on a major construction project; decision dealt with "additional insured" obligations and "other insurance" provisions).
- Persuaded panel at binding arbitration to reject claim against insurer client that it owed architectural firm over \$1 million in coverage for damages associated with construction of a Casino in Colorado.
- *Sobeida Feliz v. Brian McNeill, M.D., United States, on Behalf of Tori Robinson, M.D. and Lawrence Hulefeld, M.D.* (1st Cir. 2012)(unpublished)(obtained dismissal of a suit against physician client in federal court for the plaintiff's failure to properly serve him abroad under The Hague Convention).
- *Amy Santangelo v. Wight, Century 21 Realty et al.* (Mass. Super. Ct. 2005)(prevailed at trial on behalf of real estate agency clients; case alleged breach of a contract to purchase real estate).
- *Cynthia Carinda, Executrix of the Estate of Virginia Cutler v. Cape Cod Healthcare, Inc.* (Mass. App. Ct. 2001)(persuaded the Massachusetts Appeals Court to vacate a trial court ruling that would have required client, a Massachusetts hospital, to produce confidential medical records in violation of a Massachusetts statute.)
- Obtained \$1.6 million settlement for a father and son grievously injured.

Awards

- Fellow, Litigation Counsel of America
- “Rising Star,” *Super Lawyers* (2005-2008, 2010-2011)
- “Top Young Professional Under 40,” *New England Business Bulletin* (2009)

Interests

- School Council (Elected Position), Brooks Elementary School
- Amateur Photographer
- Member, Winchester Country Club