



# Adam I. Stein

Member

New York

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Adam Stein practices in the firm's Global Insurance Department and has handled a wide range of commercial litigation matters, with an emphasis on complex insurance coverage disputes.

Adam's insurance coverage litigation experience includes: multiple arbitrations based on coverage disputes involving the "Bermuda form"; representation of US and London Market insurers in trials of actions for coverage of environmental and pollution-related claims; numerous mediations of director and officer and professional liability claims; representation of insurers in lawsuits based on alleged business interruption following the 1993 and 2001 terrorist attacks; and multiple lawsuits based on alleged bodily injury, property damage and pollution claims in actions in Houston, Texas.

Adam has also devoted a significant portion of his practice to employment and general litigation matters, including the arbitration of executive severance and benefits claims, contested post-closing purchase price adjustments, representation of UK-based entities in U.S. smoking and health cases across the country and in trials in New York; and representation of an Ohio-based utility in action based on alleged substandard nuclear reactor safety systems and components. Adam also regularly advises clients on US insurance coverage issues, policy interpretation, liability risk management and general commercial and corporate matters, including related-party transactions, corporate governance, litigation and alternate dispute resolution.

Adam earned his J.D. from Brooklyn Law School in 1984 where he was a member of the law review and the Moot Court Honor Society. He graduated cum laude from Vassar College in 1978.

## Experience

Won summary judgment for the insurer as plaintiff in a declaratory judgment action, with the court holding that the policies at issue -- with more than \$40 million in limits -- did not provide coverage for an underlying class action brought against the insured, a manufacturer and distributor of ozone-based cleaning devices used for CPAP machines. The underlying consumer plaintiffs alleged that the insured concealed information on the risk of ozone exposure and that they otherwise would not have purchased their machines, but strategically omitted claims for damages relating to bodily injury and property damage. In granting summary judgment, the court agreed with our argument that in the absence of such claims for relief, the insuring agreement was not satisfied regardless of ancillary factual allegations of bodily injury.

Secured dismissal of a declaratory judgment action arising from an underlying employment/sexual discrimination lawsuit involving an attorney. The underlying plaintiff alleged that the insured's firm discriminated against her on the basis of sex by paying her less than male attorneys, failing to promote her to partner, and terminating her employment while retaining male attorneys with far lower performance. The underlying plaintiff further alleged that the insureds took a number of retaliatory actions against her after she filed the discrimination suit. In granting the insurer's motion to dismiss, the court agreed that the business pursuits exclusion (among other exclusions) barred coverage entirely under both a homeowners and an excess liability policy, given the retaliatory nature of the allegations. This result was affirmed by the U.S. Court of Appeals for the Second Circuit.

## Practice Areas

- Bad Faith
- Casualty & Specialty Lines Coverage
- Insurance Coverage
- International Arbitration

## Industry Sectors

- Insurance

## Education

- Brooklyn Law School, J.D., 1984
- Vassar College, A.B., *cum laude*, 1978

## Bar Admissions

- New York

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Successfully vacated a default judgment entered against Times Square Alliance in a single-plaintiff discrimination action, and then moved to dismiss based on Times Square's private actor status and plaintiff's failure to plead any facts indicating state-actor control or Times Square's active involvement in any of the offensive conduct alleged. The plaintiff elected to withdraw his claims against the client, which the court treated as a voluntary dismissal pursuant to F.R.C.P. §41(a)(1)(A), dismissing Times Square from the case.

Obtained dismissal of a "Twibel" (twitter libel)/tortious interference action brought by a pro-Russia blogger against our client, a blogger and former British Parliamentarian. The plaintiff alleged that the client defamed him and interfered with his employment as a result of a single tweet. The court concluded that the allegedly defamatory statements were nonactionable statements of opinion. It also dismissed plaintiff's tortious interference claim, finding that the complaint was devoid of any plausible allegation that the client intended to interfere with plaintiff's employment contract and that the interference claim was indistinguishable from, and duplicative of, the defamation claim.

Won summary judgment on behalf of the insurer in a dispute over whether the insured was entitled to defense costs incurred in resolving lawsuits with the four major broadcast networks. The central question in the coverage dispute was whether the policy's "Media Exclusion" applied. This result was affirmed by the U.S. Court of Appeals for the Second Circuit.

Secured dismissal on summary judgment of a plaintiff's attempted "claw back" of millions of dollars in defense costs paid by our client to the plaintiff's former defense counsel, as well as an attempt to collect damages based on alleged claims of emotional distress and insurer bad faith. At issue was the management of the plaintiff's criminal defense of a complex nursing home and tax fraud case. The court dismissed all claims against our client, including breach of contract, vicarious liability, breach of fiduciary duty, and bad faith. Significantly, the court ruled that the client's claims handling guidelines did not support any cause of action for failure to adhere strictly to their terms, and re-affirmed the rule that insurers engaging defense counsel on their insured's behalf do not have a fiduciary duty to the insured regarding the day-to-day handling of the defense.

Represented a global investment management firm in connection with a successful claim against a prominent international broker for damages resulting from errors and omissions in providing insurance brokerage services and advice.

Served as lead trial counsel representing a Swiss-based insurer defending against a claim brought by its former President of US operations for employee severance and benefits. The claim was dismissed following a two-week arbitration.

Represented a foreign investment bank in connection with OSHA and lease-related issues arising out of vermiculite/asbestos materials in its US headquarters.

Represented an international consumer product and camping gear manufacturer in the negotiated termination of the employment of its President of US operations.

Represented London Market insurers in trials of coverage actions seeking defense and indemnity for cleanup and remediation of US industrial sites.

Negotiated a \$65 million reduction of policy limits on behalf of a Bermuda-based insurer in connection with "Enron" type director and officer claims asserted against a U.S. energy corporation.

Served as lead US counsel representing a Bermuda-based insurer in arbitration of claims arising out of tele-communication and U.S. securities-related actions, polybutylene pipe and latex glove allergy claims.

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Served as lead US trial counsel representing a Bermuda-based insurer defending against unnecessary medical procedure claims, obtaining a \$65 million reduction of policy limits following a month-long arbitration in London.

Secured dismissal, in a case of first impression in New York, of a case in which a building contractor sought a declaration that our excess insurer-client was estopped from denying coverage for an underlying personal injury action because the client provided an untimely notice of disclaimer. In granting the motion to dismiss, the court held that the claim was untimely because the 6-year statute of limitations began to run when the plaintiff received the disclaimer, and the plaintiff waited 8 years to file the lawsuit.