

“Every problem has its own story. By adapting what we learn from past experiences to fresh, innovative ideas, we can devise a successful approach to our problem solving.”

Robert Shulman

Principal

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For 35 years, Robert has specialized in insurance recovery on behalf of policyholders. As Chair of the Insurance Recovery group and a member of the firm’s Litigation and Appellate practices, Robert litigates complex disputes against insurance companies on behalf of corporations seeking coverage for all manner of claims involving every form of risk and exposure such as those arising out of products, securities, directors & officers, energy, automotive, financial institutions, medical devices and health, among others.

Robert has successfully argued precedent-setting appeals in the second, third, and fourth U.S. Courts of Appeals, as well as the California Court of Appeal, San Francisco Division. Among other noteworthy representations, in *MBIA, Inc. v Federal Ins. Co.*, 652 Fed. 3rd 152 (2nd Cir. 2011), Robert obtained a sweeping first impression decision requiring insurance companies to pay defense costs from the initiation of government investigations before suit was filed. This decision allowed companies to access vast amounts of insurance that routinely are contested by the insurance industry. The MBIA decision also granted coverage for Special Litigation Counsel, a cost incurred in the defense of derivative actions that insurance companies also regularly contest. Robert also led a team on behalf of International Paper Company through a series of trials, mediations and arbitrations that recouped nearly \$1 billion in costs including damages, class counsel fees, notice programs and administrative costs. Robert’s team also achieved a \$90mm verdict against the primary insurance company that failed to defend International Paper in bad faith. The International Paper Company underlying litigation began as a potentially ruinous last of its kind “drive-by” class certification in which Robert initially led a court-mandated mediation that settled the dispute prior to the resolution of the coverage litigation.

Robert’s practice is national and international in scope. He has experience in state and federal courts throughout the US, as well as in adjudicative bodies in the United Kingdom. Notably, Robert has been involved since its genesis in disputes arising out of the Bermuda form insurance policy which requires arbitrations in the UK under NY law. Robert’s domestic and Bermuda form- UK arbitrations have involved disputes ranging from coverage for securities violations, MTBE, application of a unique special purpose insurance contract to a claims made class action settlement, multi-claim personal injury exposure as a result of a rail car explosion and a dispute over coverage for allegedly defective medical devices. As a predicate to the International Arbitrations, Robert has led the strategic, critical negotiations involved in the composition of the panel. In addition to insurance recovery and the resolution of class disputes, he also has represented Electrolux North America in the defense of multidistrict litigation involving consumer subrogation claims brought by a number of homeowner insurance companies. Unique to the specific needs of that dispute, Robert successfully defeated the MDL.

The thrust of Robert's practice is innovative problem solving through early intervention on the client's behalf. Robert believes that it is paramount to be poised to reach global resolutions when warranted while at the same time being fully prepared to take a matter through the entire adjudicative process. Robert adheres to a philosophy that decision making needs a story that allows one to understand consequences, including those that are likely and unlikely. Indeed, the result that might seem unlikely may drive a particular client's choices. As a client once put it, "one size fits one." By taking all of that into account, Robert believes he and his team can effectively and efficiently serve as his clients' advocate.

PRACTICE AREAS

Insurance Recovery

Litigation: Business

Appellate Practice

Alternative Dispute Resolution

BAR ADMISSIONS

District of Columbia

Louisiana

New York

United States District Court for the District of Columbia

United States District Court for the Eastern District of Louisiana

United States Court of Appeals for the District of Columbia Circuit

United States Court of Appeals for the Second Circuit

United States Court of Appeals for the Third Circuit

United States Court of Appeals for the Fourth Circuit

United States Court of Appeals for the Eighth Circuit

United States Supreme Court

EDUCATION

J.D., *cum laude*, Tulane Law School, 1979

B.A., Cornell University, 1975

ACCOLADES & AWARDS

Previously ranked nationwide and in New York in Insurance: Dispute Resolution: Policyholder, *Chambers USA*

Best Lawyers in America – *Best Lawyers* (2006-2020)

Who's Who Legal as one of America's Leading Business Lawyers in Insurance Recovery

The Legal 500's guide to outstanding attorneys nationwide for Insurance: Advice to Policyholders (2011)

IN THE NEWS

Seventeen Paley Rothman Attorneys Selected to 2020 Best Lawyers in America

REPRESENTATIVE CASES

Represented International Paper against 22 of its insurance carriers that sought coverage for a nationwide products liability class action. The first phase of the case resulted in a \$93.2 million jury verdict that included an award for bad faith in International Paper's favor. The trial of the second phase returned a \$383.3 million verdict in International Paper's favor as well as a declaration for damages incurred in future claims made settlements.

Represented International Paper in court supervised mediations resulting in the settlement of three large nationwide class actions.

Represent Murphy Oil Corporation in a coverage case arising out of a refinery fire.

Represented MBIA in a landmark case obtaining substantial defense costs in D&O insurance cases arising out of shareholder, SEC and NYAG actions.

Represented Electrolux in connection with insurance coverage for asbestos-related exposure and other product-related liability.

Represented Wright Medical Technologies in connection with a coverage dispute over the manufacture and sale of alleged defective medical devices.

Represented Hess Corporation in actions concerning MTBE in product liability litigation as well as a US Court of Appeals Third Circuit decision that rejected the application of a pollution exclusion to a workplace accident.

Represented Phillips Petroleum Company and its successor companies in a number of coverage disputes including its successor company Phillips 66 in connection with MTBE.

Represented Dupont in one of the first Bermuda form disputes with X.L. and ACE Insurance Companies.

Represented Fuisz in obtaining a seminal decision obtaining coverage for defamation in the 4th Circuit Court of Appeal.

SPEECHES AND PRESENTATIONS

"Risk in the Climate Crisis: Breaking the Policy Gridlock and Insuring for Impact," International Institute for Conflict Prevention & Resolution, September 2019