



Lowenstein Sandler's Insurance Recovery Podcast: Don't Take No For An Answer

Episode 70:

So, You Want to Be an Insurance Recovery Lawyer?

By [Eric Jesse](#)

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Kevin Iredell: Welcome to the Lowenstein Sandler podcast series. I'm Kevin Iredell, Chief Marketing Officer at Lowenstein Sandler. Before we begin, please take a moment to subscribe to our podcast series at lowenstein.com/podcasts. Or find us on iTunes, Spotify, Pandora, Google podcast, and SoundCloud. Now let's take a listen.

Eric Jesse: Welcome to Don't Take No for an Answer. I'm your host, Eric Jesse. I'm a partner in Lowenstein Sandler's Insurance Recovery Group. As our listeners hopefully know, here at Lowenstein, we like to fight the good fight on behalf of our policyholder clients when insurance companies try and withhold coverage from them.

And insurance recovery is a specialized area of the law and it takes dedication and experience to do battle against the insurance companies and their counsel day in day out. So today we want to talk about the life of a policy holder lawyer, what does it take to do battle with an insurance company and how does one even decide to become an insurance recovery attorney.

Because I'm pretty sure no one wakes up and says, "Yes, today is the day I'm going to be an insurance lawyer." So to answer those burning questions, I'm joined by Alex Corson, who's an associate in Lowenstein's Insurance Recovery Group and one of our rising stars here, and I could personally attest to this, is a policy holder zealot always in search of winning argument to get insurance companies to pay. So welcome to Don't Take No, Alex.

Alex Corson: Thanks for having me. It's an honor to be on.

Eric Jesse: All right. So with that, let's jump in. Alex, I know you had a life before law, you were in IT and I know you're a great singer and dedicated to that craft. So how in the world did you become interested in policy holder side insurance work?

Alex Corson: Well, as you said, I had a career or careers before law school. I was a singer and then I was in IT. I made the decision in 2017 to go back to school. Graduated from Seton Hall and got a job as a general litigator doing commercial disputes of various types. It was really just happenstance that I ended up in insurance.

I was put on a big R and W case and I spent a lot of time getting up to snuff on a handful of insurance issues and I just loved it. I thought it was really interesting area of law. So I made the move to Lowenstein Sandler in March of 2022 and immediately you and Lynda and Michael took me under your wing and gave me a whole lot of new insurance matters and issues to look at. And I was just totally in love with the practice at that point. That's how I got here.

Eric Jesse: My experience is somewhat similar in that for me, it came down to the people and the partners in the group when I was coming up and the mentorship that I got. Because it was that first and insurance second because frankly I like to tell the story about when I was a 3L in law school, I signed up for a two credit insurance law class and then I realized I had enough credits to graduate with. So I said, "Insurance law, I'm going to drop that. I'll never need that." But here I am today.

Alex Corson: I didn't even take an insurance law class in law school, I just took it from contracts and went from there.

Eric Jesse: So you've been a policy holder zealot for a few years now. So what are the things you like most about being a policyholder lawyer?

Alex Corson: Well, in addition to being a zealot as you put it, which feels good sometimes, especially when you win, I think that the area of law is really fascinating. There are a lot of policy considerations that go into each and every issue. I mean, even the smallest issues like should you toll a suit limitations clause for the duration of time while the insurer is making its coverage determination can be different state by state. Contract law is state specific, so you get 50 different versions of the same issues and the courts sort of balance these issues in different ways.

So all that to say, there's a lot of really interesting meat to chew on in this area and it's sort of always different. And on the subject of being different all the time, you can get coverage for almost anything. And so every matter, you've got some different underlying dispute or coverage matter to deal with. So you're not always dealing with the same type of fact patterns. One day it could be a bodily injury type claim under a CGL policy, the next day you could be reading about the government investigation under a D&O policy. So I love the variety and the sort of nuance that goes into this practice.

Eric Jesse: I agree with that. One of the things I like about being in the insurance group is to piggyback on what you were saying about it touching so many different areas is at Lowenstein we're full service firm. So it allows us to, for me, I like being able to interact with all the other departments in the group. So one day you're dealing with attorneys in the real estate group and another day it's the bankruptcy group and then our corporate group or our privacy group. So it's really just a great opportunity, frankly I like, just to have a natural way to connect with other attorneys throughout the firm.

Alex Corson: Yeah. I feel very fortunate to be in this group, not only for the excellent mentorship of the IRG attorneys, but the fact that in my almost two years of being at Lowenstein, I've interfaced with practice leaders and attorneys in

almost every group. I've worked with you on deals and met corporate folks. I've worked with the head of our litigation department, I've worked with bankruptcy, I've worked with just a lot of different attorneys. So that face time as a rising junior attorney is important and also beneficial. So it's a great practice for that reason.

Eric Jesse: Absolutely. All right, so now in the interest of being even-handed, you told this why being a policy holder is so great. So what are the downsides or what don't you like about policy holder? And it's okay to be honest.

Alex Corson: Well, the honest answer has to be insurers are difficult and their counsel can be difficult. That's the truth. And you can get sort of stuck in these sort of tacky small fights over things like bills and small dollar value issues that can just be made into a bigger issue and take a lot more time. Even the things that should be easy can sometimes be difficult. Not always, sometimes we have fair adversaries, but that's probably the number one thing that can be difficult about the practice.

Eric Jesse: Yeah. And that really does require you to not let the small stuff overtake what are the truly important issues in a case or dispute, because sometimes insurers will try and make the smallest thing into the biggest thing and you need to be able to weave through that and turn back to the important issues in a case. So I agree with you on that one. So why is this a specialized area of law in your view? Or maybe said another way, when a policy holder has an issue, a claim dispute, why is it important to work with a specialized insurance attorney?

Alex Corson: Well, it's a great question and I learn more about the answer to that question every day because when you first pick up a file that's about insurance recovery, you think, "Oh, this is a straightforward breach of contract or contractual based dispute. I know the tenants of contract, it's offer acceptance consideration," and then you just sort of go from there.

But what you find out when you start practicing in insurance is that, as I said earlier, there's 50 different states that have all taken different approaches on many different little nuanced issues. And the insurers write these things. So it's important to have a specialized attorney that's experienced with the specific insurance issues because the insurers employ specialized counsel to not only to litigate them, but to write them and they're reacting to the industry and to the previous claims that they have.

And if you go in with a general contract litigator type of representation, you're going to miss some of these nuances and the insurer's council's going to run circles around you. So it's very important to have someone that's familiar with the nuances and the tendrils of those nuances when you're doing battle with insurers, as you say.

Eric Jesse: I agree with that. And I mean, insurance policies can be complicated. They can be a hundred pages long. There can be definitions from A to triple Z where you have defined terms and you have to use the secret decoder rank to figure out if there's coverage. And then there's of course nuances in the case law.

So I would say it does require someone who eats, breathes and lives insurance day in, day out to be able to spot at the end of the day the winning arguments. And sometimes you see a case come down from a court where it's an insurance company attorney versus a general litigator on the other side for the policy holder. And you're seeing the arguments that could have or should have been made from the policy holder perspective.

Alex Corson: I couldn't agree more.

Eric Jesse: So as you're coming up the ranks and developing your knowledge base and specialty, what are some of the traits that you think a policy holder lawyer should possess?

Alex Corson: There's probably two or three skills or traits that are most important when you're in this area. I think the first is you have to be detail oriented. There's a lot of nuance in the law, like I mentioned, and a lot of nuance and sort of decoding in the policies themselves, especially when they're longer. So anyone that's read an insurance policy knows that sometimes you have to go to the endorsement and then back to the policy and that points you to another endorsement. Right?

So you need to be detail oriented and have the ability to sort of wrap your head around a lot of moving pieces. And then part and parcel with that are contracts, language skills. Right? Ability to, although the substance of what we're seeking coverage for is often different, at the end of the day, we're usually fighting about what words mean. Right? And so having the ability to come up with various interpretations of quote unquote "Plain words" is a necessary skill that most litigators have to do, but it's particularly important in insurance.

And then I think finally being practical and in some ways being creative are specific skills that are important to being a policy holder lawyer because being correct is only half the battle. Right? You also need to be able to leverage your correctness or correct point of view into results for clients.

And so a lot of times you have to get creative in terms of what your strategy is going to be or what pressure point you're going to put on because just writing a letter to the insurance company and saying, "We're right for this reason," doesn't always move the needle and result in a recovery. So we need to be strategic as litigators. We need to be strategic as negotiators and we need to know which pressure points are going to get results for our clients.

Eric Jesse: Absolutely. I think that's something we pride ourselves on here in the Insurance Recovery Group because what I see is we don't take a kill the mouse with the cannonball type of approach. We do, as you say, think just strategically, try to find the right pressure points. What are the quick wins we can get to bring an insurance company to the table? And in many cases, our clients don't have the appetite for years and years and years of litigation.

So they are looking for ways where we can help bring money in the door relatively quickly. And so you have to think strategically to do that rather than

go through a rote litigation process where you're just checking the box along the day. And frankly, that's one of the things I do appreciate and enjoy about being a policyholder lawyer is when you get that success, it's nice that we can actually, at the end of a claim hand our clients a check, being plaintiff's lawyers is what we are at the end of the day.

Alex Corson: Yeah, I agree wholeheartedly.

Eric Jesse: As you're learning more, and again, trying to develop your knowledge base and expertise, what are a couple things that you've done to just immerse yourself in insurance law and flatten that learning curve?

Alex Corson: Yeah. Well, I would be remiss if I didn't give credit to my mentors, to you and Lynda and Michael who've helped me a lot and who's work product I have pilfered either directly or through our document management system. But in addition to leaning on great leaders, I think that there are a couple of things that someone getting into the practice area and leverage to sort of flatten the curve as you say.

And the first is don't be afraid of secondary resources. I mean, I wouldn't copy case law right out of an alert that some other law firm wrote or that a secondary commenter wrote. However, a lot of these issues turn on sort of insurance jargon or terms of art. And whenever I come across a new issue that I haven't dealt with before specifically, I'll turn to the Manoloff, the Bible as we refer to it, which is a great secondary resource or another one that sort of puts the issue into plain English.

Right? What is this fight about? What is this issue about? I'll start there. And then also, especially when you're getting started, taking the time to really understand how policies are structured and not just flipping to the page with the provision that you are looking to fight about or litigate about is written, actually understanding the structure. Right?

You've got the ensuring agreement and then you've got the exclusions and then you've got additional conditions and then your endorsements that go back and modify all those things. So when I was really junior, I took the time, especially when it was justified to actually go through the policies, especially on each time I got a new line, right?

I would go through the policy and try to understand how this put is together? how does it all fit together before reaching a conclusion. Because the last thing that you want to do is say, "Oh, I found the clause that wins the case for us." And you report a text to the partner and then it turns out there was an endorsement on page 57 that wiped it out. That's the doomsday scenario, so.

Eric Jesse: Yes, you do have to read the policies as a whole. And I would say the things to flatten the curve, I'd say first learn by doing. We read a D&O policy from cover to cover, and we do policy audits, but we've talked about internally, "All right, how do we teach that?" Right? Do we sit in a conference room and walk through a D&O policy where people might fall asleep 15 minutes in? My perspective is I'm going to give Alex the D&O policy, take a look at it, get started, and then let's talk about it.

Let's walk through it together in kind of real time. And then just raising your hand for opportunities too, as you often do to try and learn a new area or write a client alert. So taking the initiative in that way is a great way to learn more. All right, so final words here. What advice would you give to new lawyers who maybe don't know about insurance to maybe convince them to consider this as path forward for them or a career path for them?

Alex Corson: I'd like to rely on the words of our leader, Lynda. She put together this slide show we gave for a CLE where it said a really interesting discussion about insurance. No, really. I think that the "No, really" part, it's a great practice area. Really, and I think that in addition to the upsides that we talked about, it's not going anywhere. I mean, insurance is one of the biggest businesses in the entire world, and the practice has infinite applications.

When you're dealing with policies and policy language, you get exposure to a wide array of subjects and opportunities. So I highly recommend the practice. I would not just assume that it's boring or that reading the contracts your eyes glaze over. Maybe the first couple of times, but once you get the hang of it, it's really a fascinating and nuanced area and highly recommend it's anyone that's coming up and has an appetite for a varied and sort of broad practice because that's what it is.

Eric Jesse: And we managed to have a little bit of a good time here in the insurance. With that, Alex, thank you so much for joining us today. And to our listeners, thank you for joining us as well. We'll see you next time on Don't Take No for an Answer.

Alex Corson: Thank you so much.

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