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Insurance Recovery

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SDNY Confirms $11M Award in Flextronics v. Allianz, Delivering a Major Win for Policyholders

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A recent decision from the Southern District of New York provides D&O policyholders with favorable precedent on allocation, best-efforts obligations, and insurability. In *Flextronics International Ltd. v. Allianz Global Corporate & Specialty SE*, the court confirmed an arbitration award requiring Allianz to pay the remaining $10.96 million on its excess layer, plus interest, after Flextronics settled a high-stakes trade-secrets and fiduciary-duty action for more than $42 million. Allianz's multilayered attempt to vacate the award failed at every turn, underscoring both the strength of the panel's reasoning and the steep hurdles insurers face when seeking to unwind adverse arbitration outcomes.

First, the arbitration panel and the court rejected Allianz's position on allocation. Allianz argued that because two of the six underlying defendants were uninsured, the settlement should be allocated across all defendants, preventing the loss from reaching its layer. Applying New York's "relative exposure" rule, the panel found that the insured and the uninsured defendants faced the same joint-and-several exposure for the same alleged conduct. Allianz, which bore the burden of proving that any portion of the settlement was not covered, offered no meaningful evidence. Its allocation expert had never handled a D&O allocation, had not reviewed the policy, and relied on a simplistic per capita method rather than analyzing relative liability. The panel gave little to no weight to his opinions, and the court agreed, noting that Allianz presented nothing capable of supporting an allocation below 100 percent.

Allianz also argued that Flextronics' earlier settlements with other insurers—some for less than 100 percent—showed that a full allocation was improper. The panel correctly treated those negotiations as inadmissible compromise discussions under New York law. The panel noted that even if such evidence were admissible, it would be irrelevant: Each settlement was negotiated at a different time, under different circumstances, and with different information. The court agreed that such communications shed no light on the appropriate allocation and cannot be used to devalue a policyholder's claim.

Second, the court highlighted the policies' favorable "insurability of damages" clause, which allowed the policyholder to invoke the law of any jurisdiction more favorable than New York on insurability issues. This proved significant: Delaware law—unlike New York law—permits coverage for punitive damages, intentional-acts liability, and unjust enrichment. Flextronics thus secured the benefit of Delaware's favorable insurability framework before the allocation analysis even began, illustrating how broad insurability and choice-of-law provisions can materially expand available coverage.

Third, Allianz's arguments regarding "best efforts" were roundly rejected. Allianz challenged Flextronics' compliance with the policy's "best efforts" allocation requirement, arguing that Flextronics' proposals shifted over time. The panel rejected that argument, concluding that "best efforts" is a flexible, fact-driven standard requiring only that the insured act reasonably—which Flextronics plainly did. Flextronics kept its insurers informed, provided extensive analyses, and made multiple good-faith settlement proposals. Allianz, by contrast, offered no meaningful counterproposals and failed to identify anything unreasonable in Flextronics' conduct.

Procedurally, the decision reinforces the extraordinary deference courts give to arbitration awards in insurance disputes. The District Court emphasized that an award must be confirmed if supported by even a "barely colorable" basis. Allianz's due process and evidentiary challenges fell far short of that standard, and the court dismissed several of the insurer's remaining arguments—including challenges to the panel's qualifications—as bordering on frivolous. Taken together, *Flextronics* is a sweeping victory for policyholders. It reaffirms that insurers bear the exclusive burden under New York's relative-exposure rule; that compromise negotiations with other insurers cannot be used to reduce coverage; that "best efforts" clauses are practical standards, not post hoc escape hatches; and that well-drafted insurability and choice-of-law provisions can materially broaden coverage. Above all, the decision underscores a practical reality: When insurers cannot articulate a defensible, evidence-based allocation theory, policyholders are entitled to full coverage—even in complex, multi-defendant, mixed-coverage disputes.

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