

Contact

John E. Failla

Partner

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John Edward Failla is a partner in the Insurance Recovery & Counseling Group. With more than twenty years of experience focusing on insurance recovery for business policyholders, John has the practical and legal experience to assist clients in managing business risks and solving business problems.

John has helped clients recover more than 2.5 billion dollars from their insurers through litigation, alternative dispute resolution or negotiation in some of the most significant insurance matters involving a wide range of issues, including:

- directors' and officers' liability, securities, and corporate governance matters, such as the AT&T coverage litigation
- mutual fund market timing and sales practices claims
- complex financial fraud recoveries
- losses related to the global economic crisis, such as auction rate securities and the Madoff fraud
- environmental, toxic tort, and products liability, such as the Exxon Valdez insurance litigation
- property and business interruption claims arising from the September 11 terrorist attacks
- secondary life insurance transactions
- computer and electronic crime claims
- privacy, cyber-risk, and data security claims

Although he has handled claims under nearly every type of policy and against every major insurer, John has particular experience handling financial institution insurance matters. He regularly represents banks, securities broker-dealers, underwriters, asset management firms, mutual fund complexes, private equity firms, venture capital groups and hedge funds, as well as corporate officers and directors and securities issuers. John has pursued claims on behalf of a number of financial institutions under directors and officers' and errors and omissions policies, as well as fidelity bonds, commercial crime policies and electronic and computer crime policies.

Counseling:

In addition to policyholder advocacy, John also advises and counsels clients on risk management and underwriting issues, including drafting and negotiating insurance policy language, insurance audits and historical program reconstruction, and structuring commercial and captive insurance programs.

John regularly advises members of corporate boards and corporate officers on emerging liability risks and ways to improve their insurance coverage.

He assists clients with insurance and indemnification issues in connection with corporate transactions by performing insurance due diligence, potential exposure and insurance recovery valuation and modeling, preparing risk transfer, insurance and indemnity provisions in stock and asset purchase and sale agreements, and advising clients regarding insurance transfer and succession issues. John has negotiated special insurance programs and drafted insurance policies intended to cover unique and emerging risks, such as specialty environmental policies and transaction-specific programs.

John regularly advises insurance risk managers on all aspects of insurance risk management, including annual insurance program and policy wording reviews, program structure, captives, specialty insurance coverages, analysis of emerging risks, and indemnification provisions.

In addition, John is a frequent speaker and writer on insurance coverage issues. He currently serves on the Editorial Board of *Insurance Law 360* and is leading a panel at the Risk Insurance Management Society (RIMS) Annual Conference called "E&O Insurance: Your Best Friend In The Economic Crisis."

Representative Matters

- AT&T Corporation in its successful litigation seeking to recover hundreds of millions of dollars from its directors and officers' insurers for the costs of defending and resolving several lawsuits by shareholders and creditors. To defeat what the court labeled the insurers' "coverage contraction odyssey," John argued two successful appeals before the Delaware Supreme Court on novel issues involving interrelated wrongful acts, allocation, claims-made issues, and the meaning of the definition of "loss." *AT&T Corp. v. Faraday Capital Corp*, 918 A.2d 1104 (Del. 2007); *AT&T Corp. v. Clarendon American Insurance Co.*, 931 A.2d 409 (Del. 2007) *(en banc)*
- Several of the largest mutual fund complexes and advisors in recovering from their D&O/E&O insurers the costs of defending and resolving civil litigation and regulatory investigations alleging market timing, late trading, revenue sharing, distribution and sales practice issues, and fund governance disputes
- Numerous insurance trusts in a series of lawsuits against life insurers throughout the United States in which the insurers are attempting to invalidate hundreds of millions of dollars of life insurance policies by asserting that they involve secondary market stranger-owned or investor-owned life insurance. These cases involve numerous legal issues of first impression and important industry-wide economic and business issues.
- An international clearing firm in its effort to recover losses under an electronic and computer crime policy resulting from a complex financial fraud
- Banking institution in the recovery of losses for an alleged privacy and data security loss matter under a series of professional liability insurance policies
- Numerous investors, charitable organizations, family trusts and other victims of the $65 billion investment fraud perpetrated by Bernard L. Madoff, in efforts to recover their losses under several types of insurance policies, including fidelity bonds, professional liability policies and homeowners policies

- Closely held hedge fund company and its principal in their successful efforts to recover income tax liabilities under a fiscal event insurance policy purchasedto insure against the potential loss of tax deductions on life insurance premium payments for an individual employer welfare benefit plan
- Numerous securities firms, media companies and newspapers in successful recoveries of property losses, extra expense claims and business interruption and contingent business interruption losses arising from the September 11 terrorist attacks
- Financial institutions, including broker-dealers, insurance companies, and investment banks, in recovering losses resulting from employee dishonesty, fraudulent trading schemes, fraudulent sales practices, market manipulation and embezzlement and misappropriation under fidelity bonds, financial institution bonds, bankers blanket bonds and commercial crime policies
- Securities underwriters, securities issuers, and directors and officers to recover the costs of defending and resolving class action litigation and regulatory proceedings involving the IPO Litigation, Enron, and WorldCom
- A manufacturer of electrical equipment in recovering insurance proceeds to cover environmental liabilities from PCB contamination at more than 40 production facilities and waste sites throughout the United States, in litigation against the insurers in New Jersey and Massachusetts
- A major international pharmaceutical corporation in recovering insurance proceeds for environmental liabilities arising from production facilities in New York and New Jersey
- A major sporting goods manufacturer in recovering insurance proceeds for environmental liabilities arising from a production facility in Vermont
- A chemical recycling and transporting business in recovering insurance proceeds for substantial environmental liabilities at more than 30 environmental sites throughout the United States
- The American Red Cross in connection with the successful recovery of money embezzled by an employee under the fidelity bonds
- An international manufacturer in recovering the costs to defend and resolve class action product liability suits arising from allegedly defective building

components

- International bearings manufacturer in recovering insurance proceeds for substantial environmental liabilities arising from numerous lawsuits and environmental cleanup actions in connection with a production facility in Missouri
- International beverage and food company in connection with the recovery of insurance proceeds for environmental liabilities at a number of waste facilities and production operations
- *The Village Voice* in connection with its efforts to recover insurance proceeds for antitrust investigations, and in actions asserting professional liability claims against its insurance broker
- An international insurance broker in litigation against its professional liability insurers, seeking coverage for the costs of defending and resolving claims brought by a statutory rehabilitator of an insolvent insurer
- A group of potentially responsible parties in recovering substantial insurance proceeds for environmental liabilities arising from a contaminated disposal and recycling facility in East St. Louis
- A securities issuer in the waste recycling and transportation business, and its officers and directors, in seeking coverage under their directors and officers' liability insurance policies for class action litigation arising from an initial public offering of the company's securities
- Several securities issuers in the life sciences and pharmaceutical industries, and their officers and directors, in seeking coverage under their directors and officers' liability insurance policies for the costs of defending and resolving class action litigation
- A life sciences company in obtaining insurance recovery under its products liability policies for a series of lawsuits involving allegedly defective respirators
- An international chemical manufacturing firm in recovering property damage and business interruption losses arising from a chemical explosion at a production facility in South America

- Performed environmental and insurance due diligence for major private equity firms in connection with transactions involving chemical and resin producers, chemical recyclers and transporters, pharmaceutical companies, life sciences companies, agricultural companies and other industries, including analysis and quantification of liability risks and potential insurance recovery, auditing historical insurance coverage, and advice concerning the procurement of specialty insurance coverage
- Performed insurance analysis and advised international asset management and securities underwriter in connection with insurance coverage relating to its initial public offering

Practices

Insurance Recovery & Counseling, Asset Management Litigation

Industries

Financial Services, Private Capital

Education

New York University School of Law, J.D.
St. John's University, B.A.

Admissions & Qualifications

New York

Court Admissions

U.S. Court of Appeals, First Circuit
U.S. Court of Appeals, Second Circuit
U.S. Court of Appeals, Third Circuit
U.S. Court of Appeals, Seventh Circuit
U.S. Court of Appeals, Ninth Circuit
U.S. Court of Appeals, Federal Circuit
U.S. District Court, New York, Eastern District
U.S. District Court, New York, Southern District

Memberships

American Bar Association (Insurance Coverage Litigation Committee, Tort and Insurance Practice Section)

Risk and Insurance Management Society (RIMS)

Professional Liability Underwriters Society (PLUS)

Awards & Recognition

Best Lawyers in America 2026-2027

Chambers USA: New York: Insurance: Dispute Resolution: Policyholder, 2026

Chambers USA: Nationwide: Insurance: Dispute Resolution: Policyholder, 2026

Chambers USA: Nationwide: Insurance: Dispute Resolution: Policy Holder 2020-2025

Chambers USA: New York: Insurance: Dispute Resolution: Policy Holder 2016-2025

The Legal 500 United States: Leading Lawyer 2020-2023

The Legal 500 United States: Industry Focus: Insurance: Advice to Policyholders 2011-2025 (Leading Lawyer 2025), (Leading Partner), 2026