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Commercial Division Clarifies its Jurisdiction Over Complex Commercial Insurance Coverage Cases By Joshua Blosser, R. Matthew Burke, Mark A. Berman, & Paul F. Downs

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In 2025, New York's Commercial Division expanded its authority to hear complex insurance disputes, including those involving bodily injury and property damage. The changes clarify which types of insurance cases—like environmental, cyber, and business interruption—are within its jurisdiction and remove previous exclusions for first-party claims. These reforms make it easier for large insurance cases to be litigated in New York, aligning with other states and strengthening its role as a leading venue for such disputes. The amendments are not retroactive.

For years, cases involving hundreds of millions of dollars in commercial insurance coverage were turned away from New York's Commercial Division because they sought declarations relating to underlying claims for bodily injury or property damage. That changed on Nov. 3, 2025, when Administrative Order 282/25 took effect, amending several provisions of the Commercial Division Rules (22 NYCRR §202.70) to clarify and expand the Commercial Division's jurisdiction over complex commercial insurance disputes.

Background

These amendments were the first project of the NYSBA Commercial and Federal Litigation Section's ("ComFed") newly formed Commercial Insurance Disputes Committee (CIDC). Counsel for both insurers and policyholders on the CIDC had experienced inconsistent assignment of complex insurance coverage disputes to the Commercial Division.

In several cases, coverage actions involving major corporate parties and hundreds of millions of dollars were denied Commercial Division assignment under a literal reading of the Rules—even as similar disputes proceeded in business courts in other states, or even in the Commercial Division itself. For example, in *Certain Underwriters at Lloyd's v. BASF Corp.* and *McKinsey & Co. v. National Union Fire Insurance Co.*, coverage disputes were denied assignment under the pre-amendment Rules because the underlying claims involved, in part, bodily injury or property damage, triggering the exclusion in §202.70(c)(2).

At the CIDC's recommendation, ComFed brought amendment proposals to the Commercial Division Advisory Council (CDAC), which revised them and recommended their approval. The stakes were clear: the amended rules would ensure the Commercial Division's jurisdiction to hear complex commercial insurance disputes and cement New York's status as a leading forum for those disputes.

The Amendments: What Changed

The amendments modify four provisions:

Section 202.70(b)(9) now defines "Environmental insurance coverage" as "Insurance coverage related to environmental damage or mass torts," with a proviso that underlying claims will not be heard in the Commercial Division merely because they give rise to and are the subject of a coverage action.

Section 202.70(b)(10) significantly expands the definition of "Commercial insurance coverage" to include coverage under policies insuring directors and officers, and liability, loss, or damage related to commercial property (including cargo), commercial liabilities, errors or omissions, cyber activities, commercial representations or warranties, title to commercial property, and business interruption.

Section 202.70(c)(2) previously excluded all "[c]ases seeking a declaratory judgment as to insurance coverage for personal injury or property damage." The amended rule narrows this exclusion by expressly cross-referencing the definitions in (b)(9) and (b)(10).

Under the new framework, even if a coverage dispute involves underlying personal injury or property damage claims, it is no longer excluded if the coverage at issue qualifies as “environmental damage or mass torts” coverage under (b)(9) or “commercial insurance coverage” under (b)(10). The exclusion now applies only to coverage that falls outside these categories—with individual homeowners and auto policies as examples of what remains excluded.

Section 202.70(c)(6) previously excluded “[f]irst-party insurance claims.” The new rule eliminates this exclusion, allowing first-party commercial claims—such as cargo coverage disputes and business interruption claims—to proceed in the Commercial Division.

What This Means for Practitioners

The amendments eliminate some ambiguity as to whether a commercial insurance case would be heard in the Commercial Division and create certainty for parties who desire to litigate in New York. For example, the pre-amendment rules prohibited Commercial Division jurisdiction for “[f]irst-party insurance claims” while on the other hand provided jurisdiction for “business interruption coverage,” a type of first-party claim.

As a result of the amendments, complex commercial coverage disputes involving commercial general liability policies, cyber policies, property policies, cargo policies, and other commercial lines are now clearly within the Commercial Division’s jurisdiction, provided the monetary threshold is met. The amendments bring New York in line with business courts in several other states, which have long entertained complex commercial insurance disputes.

The amendments have already changed case assignments. *Little Flower Children & Family Services v. National Union* (Sup. Ct. Suffolk Cnty. 2025), an insurance coverage action involving underlying sexual abuse claims, was initially filed in Suffolk County Supreme Court, outside of the Commercial Division. *Little Flower* sought a declaratory judgment seeking coverage for underlying Child Victims Act claims.

Prior to the amendments, such a case—seeking coverage for claims involving bodily injury—would likely have been excluded under the former §202.70(c)(2). Following the effective date of the rule change, a Request for Judicial Intervention was filed and an application was made and granted to transfer the action to the Commercial Division as a “commercial insurance coverage” matter under the expanded definition in §202.70(b)(10), which now expressly includes coverage for commercial liabilities.

Importantly, however, the amendments are not retroactive. In a January 2026 order in the BASF case, the court denied a renewed transfer application, noting that the amendments “are not retroactive” and that the court’s prior determination was “final and subject to no further administrative review.”

Conclusion

These amendments reflect a thoughtful effort by the CDAC, ComFed, and the Office of Court Administration to align the Commercial Division’s jurisdiction with its mission. Practitioners handling substantial commercial insurance coverage matters should now evaluate whether the Commercial Division is appropriate and cite the amended rules in their filings.

The amendments eliminate significant barriers and ensure that the rules on jurisdiction for insurance disputes remain consistent with and supportive of New York’s position as a leading venue for complex commercial insurance disputes.

Joshua Blossveren is a partner at Cohen Ziffer Frenchman & McKenna. R. Matthew Burke is counsel at Chaffetz Lindsey. Mark A. Berman is a commercial litigation partner at Bond, Schoeneck & King and a member of the firm’s cybersecurity and

data privacy practice group. Paul F. Downs is a litigation partner at Nixon Peabody; Mark and Paul are co-chairs of the Commercial Division Committee of the Commercial & Federal Litigation Section of the New York State Bar Association. Charles J. Scibetta (along with the other CIDC members) assisted with the preparation of this article.

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