HINSHAW

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About Tami Kay

Drawing on more than twenty years of experience as defense counsel, Tami assists clients in complex insurance matters, including policy analysis, coverage opinions, and commercial general liability. Her work encompasses reinsurance, excess liability, errors and omissions, directors and officers, cyber liability, and data breach losses.

Tami defends domestic and surplus lines carriers, corporations, individuals, general and subcontractors, developers, architects, design professionals, agents and brokers, and accountants in alternative dispute resolution forums, including arbitration. She takes a lawsuit from the cradle to the grave and her work includes a proven track record in appellate cases.

Areas of Focus

Industries: Insurance

Services: Appellate; Bad Faith, Market Conduct & Extra-Contractual Liability; Data Privacy, AI & Cybersecurity; Insurance Coverage Litigation & Counseling; Litigation & Trial

Experience

Commercial Liability – Advertising Injury

- The Honorable John F. Walter of the U.S. District Court for the Central District of California granted summary judgment to the defendant insurer, Certain Underwriters at Lloyd's, London, finding no triable issue of fact as to whether Brighton Collectibles, LLC's alleged sale of customer lists qualified as an "advertising injury" under the policy. The ruling relied on the California Supreme Court case *Hameid v. National Fire Ins. of Hartford*, (2003) 31 Cal.4th 16, 28-29, which excluded activities involving direct mail or personal solicitation from the definition of "advertising." Judge Walter also noted that selling personal information could be considered "publication" under the "personal injury" clause, but coverage was barred due to a policy exclusion for publishing activities "by or for" Brighton. Accordingly, summary judgment was granted to the defendant insurer, Certain Underwriters at Lloyd's London.

Insurance Coverage

- The Los Angeles County Superior Court granted the insurer defendant motion for summary judgment in response to the plaintiff Biopharma Research Organization, LLC's complaint alleging bad faith denial of a commercial property loss claim. The plaintiff alleged it was entitled to a new roof costing over $400,000, including punitive damages for the insurer's bad faith denial. The court found no direct physical cause of loss and undisputed evidence showed no wind or hail penetrated the roof, leading to proper denial of the claim.

Professional Liability

- In the case of *Reza Fateh Manesh v. Geoffrey G. Melkonian*, the Second Appellate District Court of California affirmed the trial court's order sustaining the defendant's demurrer on legal malpractice claims. In a well-reasoned and fulsome discussion by the Honorable Justice Carl H. Moor with the Honorable Justices Lamar W. Baker and Dorothy C. Kim concurring, the court explained that an attorney's failure to formally withdraw from representation does not necessarily mean the attorney continues to represent the client, and cited the case of *Flake v. Neumiller & Beardslee* (2017) 9 Cal.App.5th 223, 230–231. The court stated the exception of continuous representation ends when "a client has no reasonable expectation the attorney will provide further legal services." *Ibid*.
- Prevailed on motion for summary judgment for the defendant insurance agency in Riverside County Superior Court in *Inland Properties LLC v. Bulen Insurance Agency*. The plaintiff alleged the defendant insurance agency failed to secure coverage for damage caused by a tenant's criminal acts and misrepresented coverage terms. The court found no evidence to support the claims and granted the defendant summary judgment.
- In a follow-up to the *Canan v. Jones* case, the Second Appellate District Court of California in Ventura County affirmed the lower court's decision to grant summary judgment for the defendant insurance agency. The court found that California law regarding an agent's duty of care remained unchanged with regard to recommending coverage. The defendant insurance agency was not required to advise the customer to purchase excess coverage for underinsured motorist (UM) insurance from another carrier because the customer had specifically requested a $1 million umbrella policy from the original carrier, which only provided excess liability coverage, not UM.
- The plaintiff policyholders sued the defendant insurance broker for garden variety collateral claims, including *Unruh Act* violations under Civil Code §51 and elder abuse claims pursuant to *Welfare and Institutions*

Code §15610.30, arising from placement of homeowners' insurance that did not cover burglary of personal property. The defendant insurance broker prevailed on demurrer to the collateral claims and the plaintiffs subsequently dismissed all counts.

- The Los Angeles Superior Court granted summary judgment to the defendant insurance agency, ruling the agency had no duty to inspect the plaintiff's distribution warehouse to confirm compliance with the protective safeguards endorsement. The court also found no implied contract exists requiring the agency to inspect the insured's property. This decision was based on precedent from *Prop. Cas. Co. of America v. Superior Court* (1993) 215 Cal.App.4th 561, which states no duty to inspect arises from the ordinary broker-insured relationship.
- In the case of *Canan v. Jones* in Ventura County Superior Court, the plaintiffs alleged that their minor son sustained in excess of $1 million in medical damages in a skateboard accident and claimed their insurance agent was at fault for not providing adequate coverage. The court granted the agent/broker's motion for summary judgment, citing a standard established nearly 30 years ago in *Fitzpatrick v. Hayes* (1997) 57 Cal.App.4th 916, 920.
- In the case of *Baback v. Davis*, the Sonoma County Superior Court granted the defendant insurance agency summary judgment finding there was no special duty to provide commercial auto insurance to a catering business. The customer had not been covered for eight years prior to the catastrophic incident resulting in permanent injury to the plaintiff. The agency also argued the "unclean hands" doctrine based on evidence the customer had altered a Certificate of Insurance in the past, suggesting they did not want the coverage.

Recognition

- Whittier Law School, Moot Court Honors Board

Credentials

Education

Whittier Law School, JD
California State University at Los Angeles, BS, Accounting

Bar Admissions

California
Nevada

Court Admissions

US Supreme Court
US Court of Appeals for the Ninth Circuit
US District Court for the Central District of California
US District Court for the Eastern District of California
US District Court for the Northern District of California
US District Court for the Southern District of California

US District Court for the District of Colorado
US District Court for the Middle District of Florida
US District Court for the District of Nevada

Interests

Did you know...

If given a choice, Tami would find it hard to decide between visiting Machu Picchu or crossing the Atlantic on a cruise ship.

Thought Leadership

Publications

- Co-Author, “California: Inns Now Seminal Case for COVID-19 Shutdown Orders,” *CLM National*, August 2022

Press Release

- Hinshaw Continues Expansion of West Coast Insurance Capabilities, Sep 25, 2024