

September 8, 2026

Day Pitney Secures Summary Judgment for Certain Underwriters at Lloyd's, London in Washington Professional Liability Coverage Dispute

Day Pitney LLP's Insurance and Reinsurance attorneys secured summary judgment for Certain Underwriters at Lloyd's, London in a professional liability coverage dispute in Washington State Court. The Court granted Day Pitney's motion from the bench following oral argument on May 14, 2026, and August 24, 2026.

The underlying lawsuit arose from an inappropriate relationship between a therapist and her former patient. Although the therapist's former employer was dismissed, the case proceeded against the therapist in her individual capacity, resulting in a \$5.9 million verdict. The primary insurer accepted coverage of the therapist's defense and the verdict.

Day Pitney's clients, who issued a second-layer excess policy to the therapist's former employer, denied indemnity coverage of the verdict because the therapist was not an Insured under the policy and because multiple exclusions applied. Day Pitney filed a declaratory judgment action and moved for summary judgment, arguing that the therapist was not acting within the scope of her employment and that the policy's Sexual Misconduct exclusion independently barred coverage.

The court's ruling in Underwriters' favor reinforces that the duty to indemnify under Washington law is narrower than the duty to defend, and moreover that excess insurers are entitled to pursue independent coverage investigations and determinations—even where the primary insurer has accepted coverage.

The Day Pitney team included Insurance & Reinsurance Partner Jonathan Zelig and Associate Kelly Butricks.

Key Contacts



Jonathan S. Zelig
Partner

Boston, MA | (617) 345-4601
jzelig@daypitney.com



Kelly R. Butricks
Associate

Hartford, CT | (860) 275-0115
kbutricks@daypitney.com