

Lee Epstein Quoted in Law360 Insurance Authority Article About Opioid Coverage Disputes

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Shane Dilworth

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Law360 Reporter Shane Dilworth recently interviewed Shareholder & Insurance Counseling and Recovery Attorney Lee Epstein about the arguments before the Sixth Circuit in consolidated opioid coverage disputes and what the ruling could lead to for insurers.

Lee Epstein, a shareholder at Flaster Greenberg PC, told Law360 that while courts have historically acknowledged that the duty to defend is broad, jurists have become reluctant to require carriers to provide a defense.

"In the more recent trend of cases, courts seem to be overlooking historical precedent that would support coverage, if applied," said Epstein, who represents policy holders.

He also said that a court's decision on the duty to defend does not automatically require the insurer to indemnify any damages eventually after the facts are found in the underlying action.

Epstein continues: "The courts are seemingly carving out a new path that is favorable to insurers despite historical precedent that would have otherwise led to the anticipation of rulings favorable to policy holders on the duty to defend. I don't know if it's the magnitude of these cases or the amounts at issue that the courts are reluctant to hold insurers to the benefit of the bargain that they struck when they sold these insurance policies, but I assume that is factored into these decisions in some way."

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ATTORNEYS MENTIONED

Lee Epstein