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Areas of Practice

- Class Action
- Complex Litigation
- Financial Products
Coverage Litigation &
Counseling
- Insurance & Reinsurance
- Insurance Coverage & Bad
Faith
- Professional Liability

Education

University of Arizona
College of Law, J.D., with
distinction, 1980; Executive
Editor, *Arizona Law Review*;
Member, 1979 National
Moot Court Team

Rutgers University, B.A.,
with distinction, 1976

Bar & Court Admissions

Arizona

Floyd P. Bienstock

Floyd Bienstock is a partner in the Phoenix office of Steptoe & Johnson LLP where he founded and now leads the Insurance Coverage and Bad Faith group. He is an experienced trial attorney with a practice focusing on litigating insurance coverage and bad faith matters, including class actions, as well as complex commercial litigation matters in state and federal courts in Arizona and throughout the United States.

Mr. Bienstock is a frequent lecturer on civil trial techniques, insurance bad faith, and defending class actions. He was Chair of the State Bar of Arizona's Trial Practice Section from 1988 to 1990. He was Managing Partner of the Phoenix office of Steptoe & Johnson LLP from 1990 to 1995.

Insurance Coverage and Bad Faith Litigation

Mr. Bienstock has an extensive insurance litigation practice. He counsels insurers on coverage issues and represents insurers in declaratory judgment actions and civil litigation involving breach of contract, breach of fiduciary duty, bad faith, unfair trade and claims practices, and punitive damage claims.

Class Action Litigation

Mr. Bienstock has substantial experience defending class actions in commercial and insurance litigation matters, both at the certification stage and at trial.

Complex Commercial Litigation

Mr. Bienstock litigates diverse complex commercial disputes involving contract claims and business torts, as well as real estate, environmental, and professional liability matters at both the trial and appellate levels.

Noteworthy

- *Best Lawyers in America*, Insurance Law, 2007-2012
- “Top 50 Attorneys” in Arizona, *Southwest Super Lawyers*, 2009, 2011-2012
- *Southwest Super Lawyers*, Insurance Coverage and Bad Faith Defense, 2007-2012
- *Chambers USA: America’s Leading Business Lawyers*, Litigation: General Commercial (Arizona), 2009-2011
- *Arizona's Finest Lawyers 2011*
- *Lawdragon 3000 Leading Lawyers in America*, 2011
- US News Best Lawyers “Best Law Firms,” National First-Tier Ranking for Insurance Law; Metropolitan (Phoenix) First-Tier Rankings for Insurance Law, 2010

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- *AZBusiness Top Lawyers*, Commercial Litigation, 2008-2010
- Distinguished Alumni Award, University of Arizona College of Law, 2008

Representative Matters

- After a two-week trial, the jury rendered a unanimous verdict for Allstate in *Hager v. Allstate Insurance Company* (Fayette County, Kentucky 2007). Plaintiff sought \$1.425 billion in damages (\$475 million in compensatory damages and \$950 million in punitive damages) on a third party bad-faith claim against Allstate under Kentucky's Unfair Claim Settlement Practices Act. Plaintiff challenged Allstate's Claim Core Process Redesign casualty claim handling program, including the Minor Impact Soft Tissue and Colossus claim handling processes, and alleged that plaintiffs' claim against Allstate's insured was delayed for more than 2 1/2 years, before it was settled, in an effort to extort a more favorable settlement.
- A unanimous defense verdict, after a two-and-a-half-week jury trial, in a case alleging that Allstate abused legal processes through its MIST, CCPR, and CCPR Litigation Management programs. In this case, *Leal v. Allstate Ins. Co.* (Maricopa County, Arizona 2005), Cal Thur, one of the deans of the plaintiffs' bad-faith bar in Arizona with a reputation for achieving multi-million-dollar judgments in bad-faith cases, sought between \$5-7 million in punitive damages. The jury rejected arguments that Allstate used its superior financial resources to discourage plaintiffs' attorneys from representing individuals with MIST claims against Allstate insureds, and that it sought to induce MIST claimants to accept less than they were entitled to by using "scorched earth litigation tactics."
- The successful trial defense of another abuse-of-process action brought by Cal Thur. In *Crackel v. Allstate Ins. Co.* (Pima County, Arizona 2001), in a five-week jury trial, the plaintiffs sought \$500,000 in compensatory damages and \$100 million in punitive damages, alleging that Allstate's CCPR program induced Allstate's claim personnel to "lowball" claim payments and forced Allstate's in-house attorneys to abuse legal process once litigation began. We argued, on the other hand, that Allstate's CCPR program is a sound business and claim-handling program that reasonably attempts to eliminate the overpayment of claims. In a divided decision (6-2), the jury awarded nominal compensatory damages (\$7,500 per plaintiff); but in the second phase of the trial on punitive damages, the jury was out less than 10 minutes and unanimously rendered a defense verdict.

Floyd P. Bienstock

Select Seminars & Events

Insurance Bad Faith and Extra-Contractual Liability Seminar – Practical Advice and a Mock Trial to Test It, DRI, Washington, DC, June 23, 2011

Defending Institutional Bad Faith Cases, American Conference Institute Sixteenth National Advanced Forum on Litigating Bad Faith and Punitive Damages, Miami, Florida, November 7, 2007

Floyd Bienstock speaks at 16th National Advanced Forum on Bad Faith Litigation, November 7, 2007

Litigating in the Bad Faith Minefield – The Defense Perspective, American Conference Institute Fifteenth National Advanced Forum on Litigating Bad Faith and Punitive Damages, San Francisco, California, April 25, 2007

Strategies for Defeating Class Certification, Institutional Bad Faith Claims and Claims Attacking Claim Valuation Software in Insurance Bad Faith Cases, November 9, 2006, American Conference Institute Fourteenth National Advanced Forum on Litigating Bad Faith and Punitive Damages

Preventing the Adjustor from Becoming the Achilles Heel of Your Bad Faith Case, Mealey's Bad Faith Litigation Conference, Philadelphia, Pennsylvania, September 22, 2006

Selected Publications

Litigating About Litigation: Can Insurers be Liable for too Vigorously Defending their Insureds?
Spring 2007, *Tort Trial & Insurance Practice Law Journal*

The Classification of an Open-End Offender on Probation
1979, 21 Ariz. L. Rev. 163

Professional Affiliations

Chairman of the Board of the New Way Learning Academy (2008 - 2010)

Chairman of The University of Arizona James E. Rogers College of Law National Board of Visitors (2004-2008)

Chairman of the State Bar of Arizona Trial Practice Section (1988-1990)