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An intimate interview with our Expert Witness of the Year (U.S.)

Innovation Insurance Group is an insurance consulting firm and insurance brokerage, founded in 2011 by the 35-year insurance executive, Ty R. Sagalow. Following the firm's success in achieving the Leading Adviser 2017 - Leading Expert Witness of the Year – USA award, we interviewed CEO & Founder Ty R. Sagalow to discover more.

First of all, congratulations of winning the Expert of the Year award for the United States. Can you provide a short overview of Innovation Insurance Group, LLC?

Thank-you, it is an honour to be given this award. Innovation Insurance Group (IIG) is a premier consulting firm to the insurance industry providing product development, InsurTech consulting and, of course, insurance coverage expert witness services.

Let's first talk about your background?

For 25 years, I held several senior roles at AIG including General Counsel, Chief Underwriting Officer, Chief Operating Officer and Chief Innovation Officer for several divisions. I authored many of the financial lines insurance policies used in the market today and created the underwriting theories behind those policies. Following AIG, I held senior positions with Zurich N.A. and the Tower Group

Can you tell us what education you have had?

Sure. I graduated Georgetown Law Center and hold a LLM from New York University Law School. I am also a licensed P&C broker in several states.

Excellent. I can see how people who want you as an expert witness. How long have you been providing this service?

We have been providing this service for approximately 59 months and have been retained 54 times during that period.

Wow, that's amazing. A new case every month! Who are your typical customers?

We are retained by both policyholders and carriers, about 50/50. We are also retained by insurance brokers.

Interesting. Most experts work exclusively for one side or the other. Was the decision to work for both purposeful?

Very much so. We feel that experts that work only for policyholders, or only for carriers, can be accused of not being objective in their evaluation of the issue in dispute.

I can see how clients would prefer an expert who has worked on both sides, like you. Tell me more about the types of cases you have. Are they all coverage disputes?

The vast majority are. However, a solid minority deal with issues that have nothing to do with coverage such as the liability of an insurance broker?

Given your background is on the underwriting side, that's make sense? But do you provide expert witness services on claims handling like bad faith?

Absolutely. In fact, many of my coverage dispute cases have a bad faith component on which I provide an expert opinion.

And, based on what you said earlier, I suppose you have taken cases both representing the broker and against the broker?

Correct. As the case with insurance coverage disputes. I take cases I believe in regardless of which side the party is on.

What types of policies do you specialise in?

Our most common cases deal with directors and officers, professional liability or other 'financial lines' policies. However, we have also been retained in GL, business interruption and even farm policy forms.

Clients often want to know whether the proposed expert has testified. Have you?

Oh, yes. About 15 times to date, including once at trial.

The other question we often get is whether the expert has ever held to be an expert under Rule 702 of the Federal Rules? Have you?

Yes. The case can be found on my web site.

“For the insurance carrier, their biggest challenge is realising that the answer to a coverage issue does not end with just reading the words in the policy.”

Good. In the reverse, the common other question is whether the expert has ever been the target of a Daulton Motion. Have you ever been a target?

Once. The motion failed miserably. In fact, the court was so kind in describing why I am an insurance expert that I put the decision on my web site.

I am sure the other side appreciated that. Any other 'testimonials'?

Our clients have been most kind in their evaluations of us. A list of testimonials from all sizes firm around the country are on our web site.

So, you practice all over the country?

Yes. I have taken cases in almost every region of the country.

And in both federal and state court?

Sure.

Let's switch gears a bit. What are some of the most challenging issues facing carriers and policyholders in coverage disputes these days?

For the insurance carrier, their biggest challenge is realising that the answer to a coverage issue does not end with just reading the words in the policy. That is where it begins. You also must make sure that the intent and underwriting reason for the insurance provision applies to the claim at hand. Many times, an exclusion in an insurance policy does not apply to a claim, even though a simple reading of the words says it does, because the underwriting intent behind the exclusion simply doesn't make sense to apply to the claim.

Wow. So even when the words of the policy say the claim is not covered, that may not be the right answer?

Correct. The words are only the beginning of the conversation. You also must evaluate the actions of the parties, the intent of the underwriter and the theory behind the exclusion or insurance provision.

Okay. What's a challenge on the policyholder side? Or put another way, what do many policyholder attorneys forget to do?

The biggest mistake I see is that policyholder attorneys don't look closely enough at the underwriting file. They will examine the claims file in detail. But the underwriting file represents the 'deal' that was made between the insured and the carrier. Only by reviewing the underwriting file can a policyholder attorney get a true picture of what happened?

What other issues do you see these days?

Many cases deal with the application of 'looking back' provisions such as the prior notice exclusion, warranty statements, pending and prior litigation or related wrongful act provisions. In these cases, either two claims are being compared to each other or a claim is being compared to prior knowledge. They can be very tricky and hard cases.

When looking for an expert, what should people look at for?

First, of course, is knowledge of the subject matter. However, not just generalised insurance knowledge but deep drive knowledge of the specific policy.



However, knowledge is only the first feature. The ability to communicate complex issues in ways a jury will understand is critical. An ability to stand up against tough cross examination is another. And, of course, I always recommend people with testimony experience and who have been retained by both policyholders and carriers.

Directors are often very unknowledgeable about their D&O insurance. What advice can you give them?

Get involved. Remember that D&O liability is a personal liability, not a corporate one. This means that if a person is sued as a director or officer of a company and cannot be indemnified by his corporation and does not have insurance, she must pay any defence costs, settlements and judgments out of her own pocket. So, talk to the insurance broker, and if you want to, hire an independent consultant to review the policy for you.

Staying with D&Os for a second, the scariest thing for a director or officer is to get a coverage denial letter from their D&O carrier? What advice do you have for them if they do?

First, Don't Panic. Not every 'reservation of rights' letter is something to worry about. Some are, however. I wrote an interesting article on this issue called 'Top Ten Steps When Faced With a D&O Denial Letter' that can be found on my website.

INSURTECH CONSULTING

I know this interview is supposed to be about your expert witness work. But, I can't help be curious about the InsurTech consulting practice? What is InsurTech?

Historically, InsurTech refers to an industry which combines technology and insurance to lower costs and create efficiencies. In 2016, investors poured US \$1.7bn into new InsurTech. But that's the boring part. What I most enjoy doing is helping clients create whole new insurance business models or partnerships.

Up until recently, you were the Chief Insurance Officer for a new InsurTech company called Lemonade, right? Can you tell us about it?

Sure. I am a founding member of Lemonade. It is a regulated and license insurance company built on artificial intelligence and behavioural economics. Lemonade sells homeowners insurance through your phone and on the web.

That's amazing! How many licensed InsurTech insurance carriers are there in the United States?

Now, Lemonade is the only one.

Where is Lemonade Insurance Company licensed?

New York, Illinois and California but we have plans to be available to almost everyone in the U.S in the next few months. Then comes international.

As a founding member and former Chief Insurance Officer of Lemoande, are you available to help other InsurTech companies try to reach Lemonade's success?

Absolutely, and I am already in discussions with some of the potential Lemonades of tomorrow. It is what I enjoy most doing.

Ty, I have enjoyed interviewing you. This has been enlightening. Where can people go to find out more about you?

Our web site is www.innovationinsurancegroup.com. Our expert witness services including a list of clients and several testimonials can be found at innovationinsurancegroup.com/our-services/expert-witness-services/.

Thank-you Ty for spending time with us.

It was my pleasure, and thank you for this very impressive award.