

Q&A With Baker Donelson's Lee Harrell

Law360, New York (April 18, 2013, 12:45 PM ET) -- A leader of Baker Donelson Caldwell & Berkowitz PC's insurance regulatory practice, Lee Harrell concentrates his practice in the area of insurance with an emphasis on insurance regulatory matters. Harrell was previously with the Mississippi Insurance Department and also served as assistant district attorney in the District Attorney Office of Rankin and Madison Counties.

Q: What is the most challenging case you have worked on and what made it challenging?

A: I spent the first part of my career in a variety of legal roles with the Mississippi Department of Insurance as legal counsel, general counsel and then later as deputy commissioner. During that time, there were multiple cases that received both national and international attention.

However, the case that I am most proud of, although it didn't garner as much attention, involved Hurricane Katrina matters. After Hurricane Katrina made landfall, many of the citizens of Mississippi were faced with a rebuilding process that this country had never faced before. As part of that process, many Mississippians also faced issues relating to insurance coverage on their homeowners' policies.

Early on, we realized that thousands of Mississippians would need help with their insurance claims, and many Mississippians ended up in disputes with their insurance carriers. In an attempt to assist them, we established a brand new mediation program for all insureds to participate in to try to resolve their insurance claims. Through this program, hundreds of Mississippians were able to bring their insurance claims to a satisfactory conclusion and start the rebuilding process.

In addition, as a result of the success of this mediation program, I was asked by U.S. District Court Judge L. T. Senter Jr. to establish a similar mediation program for the thousands of lawsuits pending in the federal courts in Mississippi.

As a result of these two mediation programs, thousands of Mississippians were able to successfully bring to a closure their insurance claims and begin the rebuilding process.

Q: What aspects of your practice area are in need of reform and why?

A: While there have been many efforts by the insurance industry and the National Association of Insurance Commissioners (NAIC) to develop some consistency in the rules and laws from state to state, this continues to be an issue for many multistate entities.

The states have worked together to develop model laws and regulations, which most states have adopted. However, there continue to be differences in the interpretation and application of these model laws from jurisdiction to jurisdiction. This is an issue that the NAIC and many others continue to work towards improving.

Q: What is an important issue or case relevant to your practice area and why?

A: I believe, with the implementation of Patient Protection and Affordable Care Act, and the new and changing rules and regulations that come with overhauling the health insurance industry, that the regulators, insureds, insurance industry and the employers will be faced with difficult and challenging decisions in the near future. These decisions will have a dramatic impact on many lives.

As a result, state and federal regulators will have an increased oversight and review of the new laws. As of today, we don't know how governmental agencies will work together to uphold and enforce the law, but just based on the conflicting positions taken on the PPACA and the establishment of health care exchanges, I anticipate there will be many more challenges and disputes to come, increasing the need for more assistance and guidance by the insurance companies, the employers and regulators — especially when developing and interpreting new rules and regulations issued by the U.S. Department of Health and Human Services and/or the state insurance regulators.

Q: Outside your own firm, name an attorney in your field who has impressed you and explain why.

A: During my career, I have crossed paths with lawyers from almost every state and many foreign countries. But the one lawyer who has impressed me the most would be Greg Copeland, who practices law in Madison, Miss. My first involvement with Greg was when he was representing an insurance company appearing before the Mississippi Department of Insurance, but over the years, circumstances changed, and we had the opportunity to work together.

I have always been impressed with his knowledge and understanding of the insurance industry. He has been involved in many of the landmark insurance-related cases and legislation in Mississippi. We had the opportunity to work together in drafting the legislation that restructured the Mississippi wind pool following Hurricane Katrina, which helped stabilize the homeowners insurance market in Mississippi.

Q: What is a mistake you made early in your career and what did you learn from it?

A: After only a few weeks of representing the Mississippi Department of Insurance, I was asked if I could attend a national meeting with insurance regulators and prosecutors from the federal, state and local level from around the country on insurance fraud issues. I was initially impressed that after only a few weeks, I was being asked to represent the agency at such a high-profile event. I was impressed when I walked into the conference room and saw several hundred attendees.

After getting a cup of coffee and taking a seat, I noticed there was a Mississippi flag up at the main table. I began to wonder who from Mississippi was speaking, so I opened the materials and, to my surprise, I was listed as one of the keynote speakers. I quickly stepped outside and called the deputy commissioner. His comment was, "I thought I told you that you were one of the keynote speakers." I then asked him about the topic, and he told me it was about a major fraud case that covered most of the country that a former attorney for the department was lead on.

I then had to get up in front of 200 to 300 attendees and confess that I didn't know I was speaking until a few minutes ago and knew nothing about the topic. Most of the audience thought it was quite funny, however, one particular investigator kept raising his hand and asking questions about the case I knew nothing about. I kept apologizing and told him I didn't know, which only appeared to further agitate him.

My lesson from that day forward was to always make sure I understand what the client is asking me to do. Also, I learned to double check when someone offers me something that sounds too good to be true. It's sort of like what your parents always used to say: If it sounds too good to be true, it's probably because it isn't true.

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