

Anderson Kill Woos Back Insurance Pro From Lowenstein

By **Cara Salvatore**

Law360 (August 17, 2018, 5:11 PM EDT) -- Anderson Kill has lured back a former insurance recovery team member after a two-decade absence, nabbing him from his most recent home, Lowenstein Sandler, the new firm announced.

Policyholder-side insurance expert David Elkind rejoins Anderson Kill after leaving in 1996, the firm said Tuesday. He had first started at Anderson Kill in 1988, and had most recently been at Lowenstein Sandler for about three years.

Elkind, who Anderson Kill said has recovered \$1.3 billion for clients over his career, has particular expertise in environmental and mass torts insurance recovery, the firm said.

Elkind was known "as a persuasive and creative litigator when we worked with him in [the] 1990s, and we've seen him continue to move the needle for policyholders in the intervening years," Anderson Kill managing shareholder Robert Horkovich said in a statement Tuesday.

Elkind also spent about 18 years at Dickstein Shapiro and a little over a year at Orrick Herrington before coming to Lowenstein Sandler.

"I have warm memories of the firm, especially how well all of the attorneys who worked together got along. I've also always admired the groundbreaking work that the firm has done," Elkind told Law360. "Working at a firm where insurance coverage is the engine that drives the train is very attractive to me."

Just recently, Elkind was a member of the small team that was working to pursue coverage for industrial supplier Nooter Corp. and obtained a big win late last year in a Missouri appeals court.

The appeals court upheld a ruling that Nooter can pursue full asbestos-claim liability separately against an individual year's policy when multiple years of policies are involved. It doesn't have to prorate liability among policies, the court said.

The dispute between Nooter and eight of its excess carriers concerned tremendous liability for thousands of asbestos claims.

The appeals court agreed with a lower court's "all sums" allocation, allowing the policyholder to select policies in a single year and exhaust them for a loss up to applicable limits.

The appellate panel also affirmed the lower court's application of the "vertical exhaustion" method, under which an excess policy's coverage kicks in once all the lower-level policies in the same year are depleted. A group of Nooter's insurers had argued in favor of the opposing "horizontal exhaustion" model, which would have required the company to tap out all of its lower-level policies across every triggered year before being able to reach the excess coverage.

Elkind also helped metal forger client Jorgensen Forge Corp. get permission for an interlocutory appeal of a ruling freeing Illinois Union Insurance Co. from coverage of several environmental cleanup claims relating to a Superfund site near Seattle.

That case was eventually settled.

--Additional reporting by Jeff Sistrunk and Steven Trader. Editing by Pamela Wilkinson.

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