

Kathy Billings Massing

Kathy Billings Massing is a shareholder in our Insurance and Class Action Practice Group. She specializes in coverage litigation with a particular emphasis on ERISA benefit claims and insurance disputes. She has extensive litigation and trial experience in both state and federal courts.

Kathy's ERISA practice focuses on the defense of all types of ERISA benefit determinations including claims for disability, accidental death, life insurance and health care benefits. Her experience also allows her to assist clients with litigation of disputes regarding breach of fiduciary duty claims under ERISA plans, including claims that challenge the adequacy of disclosures about revenue sharing arrangements between 401(k) service providers and mutual fund companies, as well as the prudence of company stock as an investment option for 401(k) plans.

Kathy's practice includes pre-litigation analysis of coverage issues for her clients, as well as the litigation of insurance disputes and claims asserted against insurance carriers, through appeal. Kathy also specializes in the defense of agents and brokers regarding sales practices; suitability of annuities, insurance products and life products; and other errors and omissions litigation. Her insurance litigation experience also includes successfully litigating both state and federal interpleader actions on the behalf of her insurance carrier clients.

Representative Experience

- Defense of an occupational accident claim for permanent disability benefits, resulting in a complete jury verdict for the insurance carrier client.
- Defense of a claim alleging breach of contract, breach of fiduciary duty, conversion, unjust enrichment and violation of unfair trade practices act, resulting in an award of summary judgment for the insurance carrier client.
- Defense of a claim for declaratory relief and promissory estoppel resulting in an award of summary judgment for the insurance carrier client.
- Defense of counter-claims for negligence, breach of fiduciary duty, and breach of contract, asserted against our insurance carrier client after initiating an interpleader action for determination of the rightful beneficiary of a life insurance policy. The court granted summary judgment for the client, as well as the attorney's fees accrued in bringing the interpleader action.
- Successful litigation of multiple interpleader actions for the determination of the rightful beneficiaries of insurance policies, resulting in the final discharge of the insurance carrier client, as well as awards of attorney's fees and costs.
- Successful litigation and settlement of a claim for contractual indemnification filed on the behalf of our insurance carrier client against its surplus lines agent, for failure to abide by contractual guidelines regarding the placement of group medical malpractice insurance. The litigation resulted in a substantial monetary settlement of the claim for the client.

Past Experience

- Orleans Parish District Attorney's Office, New Orleans, LA
Senior Trial Attorney-Homicide Prosecutor, April 2000-August 2003
- Barkin and Neff, New Orleans, LA
Law Clerk/Associate Attorney, September 1997-April 2000
- Tulane Civil Litigation Clinic, New Orleans, LA
Student Attorney, September 1998-May 1999
- Multnomah County Legal Aid, Portland, OR
Student Attorney, May 1998-August 1998



Shareholder

Tampa

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Practice Areas

ERISA and Employee Benefits

ERISA and Employee Benefits
Litigation

Health Insurance / Managed Care

Securities and Financial Services
Litigation

Industries

Insurance

Insurance Company Regulation and
Litigation

Professional Liability

Education

J.D., *cum laude*, Tulane University
School of Law, 1999 (Member, *Tulane
Journal of International and
Comparative Law*)

B.A., *cum laude*, University of Missouri,
1994

Bar Admissions

Florida

Louisiana

Court Admissions

U.S. District Court, Middle District of
Florida

U.S. District Court, Northern District of
Florida

U.S. District Court, Southern District of
Florida

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Presentations and Publications

Publications

- *11th Circuit Decision Allows Former ERISA Defined Contribution Plan Participants to Bring Suit for Breach of Fiduciary Duty.* TIPS Committee News, ABA-TIPS Employee Benefits Insurance Law Committee, Winter 2008

Professional Affiliations

- American Bar Association: Tort Trial and Insurance Practice Section; Member, Employee Benefits Committee, 2009
- Defense Research Institute: Member, Life, Health & Disability Committee, 2005-present
- Federal Bar Association: National Criminal Law Section; Board Member, 2006-present
- Hillsborough County Bar Association, 2004-present

Community Involvement

- Attorney Ad Litem-Juvenile Court, Hillsborough County, May 2009-present
- Ophelia Project and Boys Initiative - Tampa Bay: Advisory Board, 2006-present
- Tampa Bay Inn of Court, 2005-2008

U.S. District Court, Eastern
District of Louisiana