

## Buchman in Law360 on Ruling Regarding Insurance Coverage for Opioid Lawsuits

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PRACTICES Insurance Recovery

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*Law360* quoted Haynes Boone Partner [Barry Buchman](#) in a story about a California appellate court ruling in favor of affiliates of The Travelers Indemnity Company in their dispute with certain corporate policyholders over the availability of insurance coverage for lawsuits claiming the policyholders contributed to the nation's opioid abuse epidemic.

The court ruled Nov. 6 that Travelers does not have to defend Actavis Inc. and related companies against such claims because the pharmaceutical companies' allegedly deceptive marketing of painkillers is not an accident, *Law360* [reported](#).

In a published opinion, a three-judge appeals panel upheld a trial judge's decision for Travelers after concluding that suits brought by two California counties and the city of Chicago do not trigger coverage under the insurer's general liability policies, because the lawsuits are rooted in allegations of intentional wrongdoing by Actavis and the related companies rather than accidental events, *Law360* reported. ...

The *Law360* report explored the ruling's potential impact on the ability of other policyholders to recover insurance for claims by local and state governments that seek to assign blame for the rising costs of public services for treatment of opioid addiction and associated issues.

"Even assuming the decision stands as written, I think by its own terms it is limited as to the potential impact on similar cases," said Haynes Boone partner Barry Buchman. "Policyholders, therefore, should not be disheartened. They should both closely examine their policies and analyze the potential choice-of-law scenarios." ...

*Law360* reported that, although Actavis and the other policyholders lost on two different fronts, the appellate panel acknowledged two out-of-state decisions, from the Fourth Circuit and a Kentucky federal court, which found coverage under general liability policies for West Virginia's opioid suit. ... Therefore, according to attorneys, companies hit with opioid liability suits in the future may be able to secure coverage from their insurers if they initiate litigation in a jurisdiction with favorable case law on the books. ...

"Yet again in the area of insurance coverage, we are reminded how important choice of law can be and thus how important choice of forum can be," said Haynes Boone's Buchman.

"Even holding state law constant, you will have claims similar to West Virginia's suit that, even under the Actavis court's standard, likely are covered," Buchman added.

Excerpted from *Law360*. To read the full article, click [here](#).