

Q&A with Dykema's Ben Jeffers

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Ben Jeffers

Dykema member—and leader of the Firm's Insurance Industry Group—Ben Jeffers, is the subject of Law360's Insurance Q&A feature, published on June 4, 2013. The article is reprinted below, with the permission of Law360 and its parent company, Portfolio Media, Inc.

Ben Jeffers is a business lawyer who specializes in antitrust, commercial and insurance-related disputes and insolvency matters. He particularly enjoys defending class actions and other high-stakes matters. Jeffers has spent his entire career at Dykema, and was appointed director of the firm's Insurance Industry Group in 2012.

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

A: My seven-year long representation of Ms. Emma Barksdale in Detroit stands out as my most challenging case. This was a pro bono assignment, and I was considerably out of my comfort zone because it involved real estate and eviction law.

Emma lived in the same house with her sister her entire life. After her sister died, and before Emma fully realized what was going on, Emma learned that the home was in her sister's name and was probated to her nieces. Sadly, the nieces promptly started eviction proceedings. This was an emotional as well as financial issue for the client. We worked to defend the eviction and then to negotiate a life estate so that she could remain in her home for the balance of her life. The dispute lasted almost seven years.

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

A: Class actions and other large commercial disputes continue to be disproportionately expensive due to the burdens of discovery. The risks and costs of the litigation create real-world leverage for those pursuing the matter that exceeds the claim's value. There has been a lot of progress in the area of developing sensible protocols for e-discovery, but there needs to be greater reform and avenues for weeding out weak claims prior to full-blown discovery.

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

A: The insurance industry primarily is regulated at the state level. Following the financial collapse in 2008-2009, however, there has been renewed scrutiny of our industry at the federal level. The conversations surrounding the implementation of the Dodd-Frank Wall Street Reform and Consumer Protection Act and other reform ideas, such as optional federal chartering, suggest that this scrutiny has not passed with the immediate financial crisis.

Insurers and other stakeholders continue to look for certainty as to the regulatory landscape, and they have not yet found it. In itself, that continued uncertainty is unsettling to many.

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

A: I have been fortunate to count Tom Jenkins of Locke Lord as a friend and fellow colleague in the specialized area of insurance company insolvencies. Tom is what many of us aspire to be to our clients—that “trusted adviser” who gives knowledgeable, timely and practical advice. He listens more than he talks and makes sure that every word when spoken has value.

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

A: In my first week as a lawyer, I needed to help file a motion. Someone reminded me that we needed to add a “proof of service” to the end of the document, and so I spent two hours on Westlaw researching what that was. I learned later that legal assistants prepare these forms every day.

I learned two important lessons from this: first that I shouldn’t hesitate to ask questions—even if I think they’re “dumb”—and second, it’s inefficient and wrong to try to know or to do everything myself.