



# TRACY ALAN SAXE

PRESIDENT & CEO OF SAXE DOERNBERGER & VITA, P.C.

Website: [www.sdvlaw.com](http://www.sdvlaw.com) | Email: [coverage@sdvlaw.com](mailto:coverage@sdvlaw.com) | Phone: 203-287-2100



**Finance Monthly** had the pleasure to speak with Tracy Alan Saxe, President and CEO of Saxe Doernberger and Vita P.C. (SDV) - an insurance coverage practice firm that represents policyholders in insurance coverage matters. With offices in Connecticut, Florida and California, the firm advocates across the nation to resolve disputes with insurers on all lines of coverage, including general and professional liability, commercial property, business interruption, directors and officers, and pollution coverage. Below, Tracy tells us more about it.

**Q Your career began as a general litigator – can you tell us about that experience? What drew you to the insurance field?**

I began my career at a small general practice firm of less than 20 lawyers, in Stamford, Connecticut. There, I tried many cases of all types – both civil and criminal. Beginning in the 1980's, I worked in insurance coverage doing asbestos insurance coverage work. I began working in this area after a friend of mine from law school who was in-house counsel at Combustion Engineering (later owned by ABB) asked me if I was interested in doing insurance coverage work. At that time, they worked on a lot of asbestos claims and insurance coverage disputes. Initially, I thought that it sounded boring, but once I began doing insurance coverage work, I realised that I loved the intellectual challenge that came with it and started turning away other types of work. By the 1990s, I was doing insurance coverage work to the exclusion of all else. I found insurance coverage to be the most interesting and exciting type of work that I've had the chance to do – the exact opposite of what I thought it would be!

It's been three decades since that day and I haven't looked back! I find it very exciting to work in this field, on behalf of policyholders. I take great pride in the fact that we level the playing field for policyholders who are up against insurance companies whose sole focus is to use

their vast resources to find the areas of a policy that reduce coverage. It's much more rewarding to be fighting for David than Goliath.

By 1994, I was Co-counsel on a major coverage matter with Anderson Kill and after a couple of years, they asked me to open their Connecticut office for them - something that I happily did. After about three years, it became clear to me that there was a better way to service our clients. This area of law benefits from an efficient, creative and nimble organisation that a large firm typically does not provide. In 1996, We changed the name of the firm, but everything else stayed the same. We started with three lawyers, and today we have 28 lawyers in three offices nationwide.

Over the years, we've seen considerable organic growth and we continue to expand. The other very exciting thing about doing insurance coverage work is dealing with liability policies. A liability policy is when Person A is bringing a suit against Person B and Person B is then seeking insurance coverage for that suit. These are called third-party liability policies that are supposed to provide for the expense of Person B's defense fees and to pay for any settlement or judgment against them. In those matters, we get a bird's-eye view of the strategic decisions about what goes on in the suit against Person B, which is defended by a different set of lawyers. Our goal is to get the insurer to pay the lawyers' fees, as well as our client's settlement. This dynamic

gives us the opportunity to work with lawyers all over the country who are very good at their specific field, but don't do insurance coverage work, adding to our strategic ability.

**Q How can potential insurance disputes be minimized in relation to coverage, so that litigation can be avoided?**

There are many ways to do this. Thoughtful strategies on the purchasing side of insurance are important. When it comes to commercial property coverage, we make sure we've figured out what the client's business interruption valuations are. In other words, what type of losses they are likely to sustain because of a business interruption of any sort, making sure they get proper coverage for that. Then, our lawyers look at the actual policy language, with the claim scenario in mind, to make sure that the endorsements give the client the coverage that they expect. In addition, we review your contractual relationships with vendors, customers, sub-contractors, sub-consultants, landlords, tenants, or any variety of contractual relationships, to make sure they have properly specified the insurance coverage that is required of them and to what extent they are required to be an additional insured, to what extent they expect indemnification and the opposite. This is to say to what extent they are providing additional insured coverage to other parties and to what extent they indemnify

them, making sure that any indemnity they give or get is actually covered by the respective insurance policy.

On the other side of a litigation avoidance is for our lawyers to come in before bringing any sort of suit against an insurance company, making a thorough examination of where the coverage is and making a thorough rebuttal of denial letters. We work with our clients' insurance broker to approach the resolution of the matter, in a business-like environment rather than a litigation setting. We try to help them understand the facts, laws and policies that apply and present this in a cohesive fashion so they can put their best foot forward.

**Q What strategies do you employ to successfully defend against a coverage issue?**

The most important thing is a detailed understanding of all the key issues and the policy, what laws might apply in which state and where the suit might be brought. Most of the cases that we work on are very large and the way we look at each case is very strategic. When compared to typical litigation, our work is more like three- or four-dimensional chess. For instance, it is very common that the insurance policy we are fighting with the insurance company about has 'no choice of venue' or 'choice of law' provisions. Our clients are almost uniformly national or global entities which means that the lawsuit can take place anywhere in the country or in other parts of the world as well. The law that's going to apply could be determined differently in each jurisdiction where the suit might be brought, thus, what we often end up doing is looking at anywhere from four to seven issues that might decide the outcome of the case, before we even decide whether a suit should be brought. We look at each issue under the various different laws that might apply in the specific jurisdiction and then make a strategic determination of where a suit should be brought - if it needs to be brought.

We also need to be fully prepared with the facts that support our position.

At SDV, we find that the quickest settlements come when we are fully prepared to aggressively litigate a case. If not handled aggressively or if you don't have a comprehensive strategy to start with, cases tend to drag on and become very, very expensive. This is where SDV's experience as trial attorneys adds great value to our clients. In this area of law, it is critical for clients to have a firm that has experienced general litigators who have tried cases to verdict representing them from Day One. Many cases in this area of law are multi-dimensional, and they can move through a number of stages in litigation. A client needs to know that the firm representing them has attorneys that can build a successful case with trial in mind.

**Q How is mediation used to resolve disputes within the sector?**

We find that many cases are helped by mediation and if it's used at the right time, an early resolution is possible. That's because many firms do not appreciate that the mediation process is not always a zero-sum game. If used strategically and timed correctly, mediation can help both sides understand their cases first, which in turn, helps both sides begin to see the opportunities where resolution is possible. Mediation is very common in the sector - probably almost every case that we work on involves mediation. Some cases could even require more than one mediation (with a third-party mediator) or a court-

side mediation conducted by a magistrate or a judge. It has also become a common practice for us to go through these dispute resolution processes without any suit pending. We often have face-to-face negotiations and include mediation as part of this process.

It is critical for clients to have a firm that utilises this alternative dispute resolution process in a strategic and effective way. Once again, it is helpful to our clients that our partners came to this area of law with decades of experience resolving civil cases through mediation.

**Q What motivates you about working within the field? What are your goals for the future?**

I find it very exciting to work in this field, on behalf of policyholders. Typically, my corporate clients are busy working on other things and insurance is not their day-in/day-out business, and neither is litigation. Insurance companies on the other hand are solely focused on insurance, so they are naturally better prepared for this battle than the policyholders. I take great pride in the fact that we level the playing field by coming in with the type of expertise that matches or exceeds the insurance companies' own expertise on insurance coverage disputes.

Our goals for the future is to continue to build our high-quality clientele and reputation for doing high-level, complex insurance coverage work on behalf of policyholders.

*"Mediation is very common in the sector - probably almost every case that we work on involves mediation"*

Tracy Alan Saxe

