

San Diego Daily Transcript

NEWS | SAN DIEGO – Friday, May 7, 2004

Leveling the insurance playing field

Osborne & Nesbitt get businesses the coverage they are entitled to

What started over a beer at Shakespeare Pub in 1995 has developed into one of San Diego's most unique law practices: **Osborne & Nesbitt LLP**. Partners Gary Osborne and Dominic Nesbitt have parlayed their friendship and respective areas of expertise into a successful, boutique law firm that practices exclusively in one niche area of the law -- commercial insurance coverage analysis and litigation for policyholders.

"Like patent, bankruptcy or securities law, insurance coverage is a highly technical field that is best suited to lawyers who are specialists in that one area," Nesbitt said. "The insurance industry knows this, and for that reason employs a virtual army of insurance coverage lawyers. Our mission is to level the insurance playing field for policyholders."

Many businesses in Southern California turn to Osborne & Nesbitt when their insurance companies deny them coverage.

"... You can often expect to be denied coverage and then you must put together the best personnel to fight. Gary and Dominic are extremely valuable and provide the expertise to deal in that environment," said former Upper Deck general counsel Kevin Cahill, who has worked with the firm for several years. "When you get them involved, insurance carriers recognize that they are experts in their field and change their tone."

The firm's particular specialty involves commercial insurance issues that

arise out of business litigation. The firm's expertise extends to all forms of commercial liability insurance, including directors and officers, errors and omissions, commercial general liability, professional liability and employment practices liability policies. Their clients include **The Upper Deck Co. LLC**, **Thane International Inc.**, **Greenlight Financial Services Inc.**, **VCA Antech**, **Lakeshore Entertainment Inc.** and even the **Girl Scouts**, to name but a few.

The experience and expertise of its two partners allow the firm to deliver what Osborne calls the "one-two punch" consisting of expert insurance coverage analysis, and high level litigation and trial advocacy skills. Together, they form a powerful combination when confronting an insurance company that has wrongfully denied a claim or is otherwise withholding insurance benefits.

Nesbitt spearheads phase one of the process, which involves reviewing a claim to determine if it has been properly denied, or to ensure that all policy benefits are paid. He initially trained as a Lloyd's insurance broker with J.H. Minet & Co. in London before entering law school in the early 1980s.

After working as a Solicitor in England, Nesbitt moved to San Diego where he worked as an insurance-coverage lawyer for the insurance industry, first at Adams, Duque & Hazeltine, and then at Luce, Forward, Hamilton & Scripps LLP, before forming Osborne & Nesbitt in January 1996.



Gary Osborne, left, and Dominic Nesbitt of Osborne & Nesbitt LLP

He is the past chair of the Insurance/Bad Faith Section of the San Diego County Bar Association. His work as an insurance broker, and his years as a lawyer for insurance companies, give Nesbitt a valuable insight into how insurance companies work and think. He brings this insight to bear when analyzing coverage, advising clients, and negotiating with insurers.

In matters that require litigation, Osborne leads the charge. He is a University of Chicago Law School trained litigator who, over the past 15 years, has successfully argued cases before state and federal trial and

(continued)

appellate courts throughout Southern California. In addition, he has taught trial advocacy and deposition skills as a faculty member/lecturer for the National Institute for Trial Advocacy at programs in Seattle, San Francisco, Oakland, Palo Alto and San Diego.

"I found their skills very complementary," Cahill said. "Dominic is extremely knowledgeable regarding the nuances of policies and Gary is very adept in presenting a client's position to a judge or magistrate."

"They are a great resource," said Jacque Bailey, vice president of legal business affairs at La Quinta-based Thane International Inc. "As our company has grown throughout the years, our insurance issues have become more and more complex. That is why we turn to someone with expertise in the area."

Many sophisticated business people and lawyers are unaware that a resource such as Osborne & Nesbitt exists when coverage is denied. In fact, some insurance carriers are even surprised to learn that their insureds have hired insurance-coverage counsel. "Once, I called an adjuster and told him that I was insurance coverage counsel for his insured," Nesbitt recalled. "He responded indignantly, 'That can't be, we (the insurance company) hire insurance coverage counsel, not the insured!'"

Whether it's coverage for a routine contract dispute involving a local business or coverage for intellectual property claims against the Hollywood producers of a high-grossing motion picture, most of the cases Osborne & Nesbitt handle involve the following scenario: (1) a business has been sued, (2) the business has tendered the lawsuit

to its liability insurer and (3) the claim has been denied.

"We help businesses identify wrongful denials of coverage and then do something about it," Osborne said.

Indeed, according to Peter J. Mort, the head of the litigation practice at the three California offices of **Akin Gump Strauss Hauer & Feld**, "Osborne & Nesbitt has recovered millions of dollars from insurers on behalf of our clients."

Following the October 2003 wildfires, Osborne & Nesbitt lawyers volunteered their time to provide pro bono representation for several families who lost their homes in that disaster.

"One terrific aspect of this practice, whether we are working with a family who lost its home in the wildfires or advising the general counsel of a large corporation, or educating business litigators about the insurance rights of their clients, we are helping to ensure that policyholders receive the insurance protection they bought and paid for," Nesbitt said.