

## INSURANCE AND HEALTH CARE FRAUD LITIGATION

Katten's Insurance and Health Care Fraud Litigation Practice is the preeminent leader in the nation in helping insurers reduce their exposure to systemic fraud through the development of effective claims handling practices and affirmative litigation against parties responsible for driving fraudulent claims activity. For more than 15 years, Katten has worked extensively with automobile, worker's compensation and health insurers across the country to identify fraudulent claim trends in high-exposure markets, develop multifaceted strategies that substantially reduce clients' exposure to these activities, and recover payments that were never owed in the first place. Our attorneys work to combat fraudulent insurance claims by targeting patterns and parties who are driving systemic fraudulent claims activity.

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We have helped our clients to avoid payment of fraudulent claims through the design and implementation of claims handling practices tailored to the issues raised by suspect claims. We also provide coordinated defense of claim denials if they are challenged.

Katten routinely represents insurers in affirmative litigation directed at the parties who are primarily responsible for fraudulent claims activity and has successfully recovered significant sums on behalf of our clients. We have brought cases and argued many positions

that have established controlling legal principles in the relevant areas of law and jurisdictions, which in turn have been used to reduce future exposures. We have creatively used the tools of litigation to expose previously unknown fraudulent practices and participants. Our attorneys also work with law enforcement authorities and regulatory bodies in related criminal and disciplinary proceedings.

The Insurance and Health Care Fraud Litigation Practice includes several former federal prosecutors and others with considerable knowledge and experience in the following areas:

- patterns and practices of those who engage in insurance and health care fraud;
- insurance claims operations, company and industry-wide claims databases;
- various forms of medicine including physiatry, orthopedics, neurology, psychiatry, psychology, dentistry, acupuncture, physical therapy, surgical procedures, pain management and chiropractic;
- various forms of diagnostic testing including imaging studies, neuropsychological testing, electrodiagnostics, range of motion and muscle strength testing, pulmonology tests and sleep studies; and
- durable medical equipment and orthotics.

Our team has extensively researched and worked with state and federal laws regarding the corporate practice of medicine, fee-splitting, kickbacks, self-referrals, patient brokering and licensing laws for medical professionals, hospitals, ambulatory surgery centers and multidisciplinary practices.

In addition, we have creatively and successfully used civil litigation to advance the interests of insurance clients as they aggressively combat fraud. These efforts have included developing a nationally recognized expertise with the Racketeer Influenced and Corrupt Organizations Act (RICO), which we have successfully used in many cases for insurers.

## Representative Experience

We are extremely proud of our clients' achievements in establishing themselves as industry leaders in the fight against fraud. Following is a sampling of the matters we have handled.

- We obtained a jury verdict in federal court in Florida against a soft-tissue injury clinic and its owners for approximately \$4.5 million, attorneys fees and costs, and a declaration that the insurer did not owe approximately \$700,000 in pending bills. We proved that medical examinations were improper, diagnoses were predetermined, and every patient was treated pursuant to a predetermined protocol. As a result, we prevented numerous bad faith lawsuits against the insurer that had been threatened by the clinic and insureds who had been allowed to intervene. (2009)
- We successfully defended an insurer by winning a motion to dismiss RICO and fraud claims alleging that the insurer had conspired with vendors and doctors to deny claims based upon allegedly fraudulent independent medical examinations. (2009)
- We brought, and less than a year later settled, a RICO and fraud case against a neurologist in Michigan alleging that he submitted hundreds of fraudulent bills for neurological evaluations, diagnostic tests, and vestibular and physical therapy purportedly rendered to victims of automobile accidents. (2008)
- We obtained a \$4.2 million jury verdict in a federal court in Michigan for an insurer against an attorney, who was also a psychiatrist, and a former adjuster who had committed fraud in connection with nine catastrophic injury claims for no-fault benefits. The court also voided purported settlement agreements relating to the claims because they had been procured through fraud. The verdicts were affirmed by the United States Court of Appeals for the Sixth Circuit, and the United States Supreme Court denied a petition for a writ of certiorari. (2007)
- We brought a RICO and fraud action in federal court in New York against doctors and unlicensed individuals involved in filing fraudulent no-fault insurance claims for medically unnecessary electrodiagnostic tests through medical practices that were secretly and unlawfully owned by unlicensed individuals. (2007)
- We brought and settled a RICO and fraud action in federal court in Texas against health care providers including doctors, hospitals, ambulatory surgical centers and a large compounding pharmacy involved in submitting millions of dollars worth of fraudulent workers compensation claims. (2007)
- We brought a RICO and fraud action in federal court in New York against doctors and unlicensed individuals involved in a scheme to submit fraudulent claims for medically unnecessary electrodiagnostic tests through medical practices that were secretly and unlawfully owned by unlicensed individuals. (2006)
- We obtained a \$230,000 jury verdict in a federal court in Orlando for an insurer against the operator of a business that provided fraudulent medical reports purporting to interpret electrodiagnostic tests and spinal ultrasounds. (2006)
- We obtained dismissal of a complaint against an insurer brought in federal court in New York alleging that the insurer had committed fraud and RICO violations by intentionally denying, delaying and underpaying no-fault claims. (2005)
- We brought and settled a fraud action in state court in New York against several acupuncture practices allegedly owned by an individual who was not licensed to practice acupuncture and was involved in making fraudulent no-fault insurance claims for medically unnecessary acupuncture services. (2005)

- We obtained dismissals of two class action complaints filed against insurers in New York state court alleging that the insurers had intentionally denied, delayed and underpaid no-fault claims for durable medical equipment and MRIs. The courts granted motions to dismiss the complaints in both cases. (2004–2005)
- We brought RICO and fraud claims in federal court in New York against doctors and unlicensed individuals who made fraudulent no-fault insurance claims through medical practices that were secretly and unlawfully owned by the unlicensed individuals for medically unnecessary current perception threshold diagnostic tests. (2004)
- We brought and settled RICO and fraud claims in federal court in New York against doctors and unlicensed individuals who made fraudulent no-fault insurance claims through medical practices that were secretly and unlawfully owned by the unlicensed individuals for medically unnecessary diagnostic ultrasounds. (2004)
- We brought RICO and fraud claims in federal court in New York against a large, complex and organized scheme involving retailers and wholesalers of durable medical equipment and orthotic devices. (2004)
- We brought and settled RICO and fraud claims in federal court in New York against doctors and others involved in filing fraudulent no-fault claims for durable medical equipment based upon inflated wholesale invoices. (2004)
- We brought and settled a RICO and fraud action in federal court in New York against dentists and unlicensed individuals who made fraudulent no-fault insurance claims based on the misdiagnosis and treatment of TMJ. (2004)
- We brought and settled a RICO and fraud action in federal court in New York against psychologists and others who made fraudulent no-fault claims for psychological diagnostic interviews and testing that was medically unnecessary and not provided. (2003)
- We brought and settled a fraud action in federal court in New York against medical practices, management companies and unlicensed individuals who made fraudulent no-fault claims through medical practices that were secretly and unlawfully owned by the unlicensed individuals. (2001)
- We brought and defended numerous fraud lawsuits in state and federal courts across Florida on behalf of insurance companies against parties allegedly involved in brokering patients for MRIs and other diagnostic services. After we obtained several favorable opinions from trial and appellate courts, the Florida legislature amended the Personal Injury Protection Statute to prohibit parties engaged in brokering from eligibility for benefits even if the services were rendered and medically necessary. (1999–2001)
- We obtained a \$14 million judgment from a federal court in Houston on RICO and fraud claims against chiropractors and others based on a scheme involving law offices, clinics and staged accidents. (1998)
- We brought and settled a RICO and fraud case in federal court in Illinois against doctors, lawyers and accident-organizers involved in fraudulent claims based upon “sudden stop” and “swoop and squat” accidents. (1996)

## Contact Us

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## About the Firm

Katten Muchin Rosenman LLP is a full-service law firm with more than 600 attorneys in locations across the United States and an affiliate in London. The firm's business-savvy professionals provide clients in numerous industries with sophisticated, high-value legal services, with a focus on corporate, financial services, litigation, real estate, commercial finance, intellectual property and trusts and estates. Among our clients are a wide range of public and private companies, including a third of the Fortune 100, as well as a number of government and nonprofit organizations and individuals. For additional information, visit [www.kattenlaw.com](http://www.kattenlaw.com).

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