

Cases for which Donald W. Bendure has testified since 1-1-2001:

1. Deposition on June 20, 2001, a policyholder's case testifying on behalf of the Airport Authority of Washoe County, NV, styled as *Airport Authority of Washoe County vs. Chubb Pacific Indemnity, et al.*, Case No. CV 98-08065 in the Second Judicial District Court of the State of Nevada, Department No. 9. Retained by the Airport Authority through their attorney Joel Gumbiner of Gumbiner & Eskridge, LLP, Walnut Creek, CA, (925) 933-5800. Dispute concerned coverage aspects of a large flood loss to the airport runways and ground equipment.
2. Testimony on January 31, 2002, in an arbitration hearing before a three judge panel of the American Arbitration Association on behalf of Jackson National Life Insurance Company for case No. 13 195 00607 00 styled as *Bucyrus International, Inc., Claimant, against Jackson National Life Insurance Company, Respondent*. Retained by their attorney Steven Cooper of Anderson Kill and Olick, N.Y., N.Y., (212) 278-1000. This dispute involved valuation of risk premium that Jackson National Life assumed in the settlement of malpractice claims against a law firm resulting from the underlying bankruptcy suits of Bucyrus International.
3. Deposition on September 24, 2002, a plaintiff's case testifying on behalf of International Wire Group, a subsidiary of Hicks, Muse, Tate & Furst, Inc., styled as *International Wire Group v. National Union Fire Insurance Company, et al.*, No. 02 CH 2470 in the Circuit Court of Cook County, Illinois, County Department – Chancery Division. Retained by their attorney, Dean Dickie of Rooks Pitts in Chicago, IL, (312) 627-2155. This dispute involved rescission issues with regard to self-insured retention (SIR) claims for a manufacturer of hoses that were incorporated into other manufacturers' appliances.
4. Deposition on November 12, 2002, a plaintiff's case testifying on behalf of Inamed Corporation, styled as *Inamed Corporation, et al., v. Medmarc Casualty Ins. Co., et al.*, Case No. CV 00-11325-ABC (MANx) in the U.S. District Court for the Central District of California. Retained by Inamed Corporation, Santa Barbara, California, through their attorney Jeffrey Raskin of Zevnik Horton, San Francisco, (415) 364-6300. This dispute involved rescission issues surrounding the usual and customary treatment of batch clause and claims-made provisions within multiple policies owned by Inamed and its subsidiaries.
5. Deposition on January 13, 2003, a plaintiff's case testifying on behalf of Metaldyne Corporation, styled as *Metaldyne Corporation, et al. v. National Union Fire Insurance Company of Pittsburgh, PA, et al.*, Case No. EDCV 02-374VAP (GGLX) in the U.S. District Court for the Central District of California, Eastern Division. Retained by Masco Corporation, successor to Metaldyne, through their attorney Doug Mastroianni of Callahan & Blaine, Santa Anna, CA, (714) 241-4444. This dispute involved coverage issues involving a question of underlying policy treatment by the first umbrella and whether the first umbrella owed a duty to recognize that underlying by being excess of it.

6. Deposition on January 22, 2003, a defendant's case testifying on behalf of Mike Cheap and Throckmorton Insurance Agency, styled as *High Plains Wireline Services, Inc. vs. National American Insurance Company, Inc., Mike Cheap and Throckmorton Insurance Agency*, Case No. CJ-2002-1517, in the District Court of Oklahoma County, State of Oklahoma. Retained by defense counsel Jeff Beeler of Beeler, Walsh & Walsh of Okla. City, OK, (405) 843-7600. This dispute involved issues regarding the contractual exception absent in a manuscript employer liability exclusion endorsement to the Commercial General Liability coverage form issued by National American Ins. Co.

7. Deposition on February 18, 2003, a plaintiff's case testifying on behalf of New Era of Networks, Inc., styled as *New Era of Networks, Inc. vs. Great Northern Insurance Company, Federal Insurance Company and Hartford Fire Insurance Company*, Civil Action Number H-01-1841, in the United States District Court for the Southern District of Texas, Houston Division. Retained by plaintiff's counsel Nate McKitterick of Gray Cary, Palo Alto, CA, (650) 833-2394. This dispute involved coverage issues regarding advertising injury with regard to title infringement and misappropriation of advertising ideas over several years of advertising.

8. Deposition on June 10, 2003, a plaintiff's case testifying on behalf of Cargill, Inc., styled as *Cargill, Inc. vs. Evanston Insurance Company*, Court File No. CT 00-001998, in the Fourth Judicial District Court of Hennepin County, Minnesota. Retained by plaintiff's counsel Tom Mielenhausen of Lindquist & Vennum, PLLP, in Minneapolis, MN, (612) 371-3211. This dispute involved coverage issues regarding groundwater pollution liability at a Cargill site in Dawson, GA.

9. Deposition on August 6, 2003, a defendant's case testifying on behalf of National Union Fire Insurance Company, styled as *William Norris vs. National Union Fire Insurance Company of Pittsburgh, PA*, Case No. 01-08886, in the 14th Judicial District of Dallas County, Texas. Retained by defense counsel David Metzler of Cowles & Thompson, Dallas, TX, (214) 672-2000. This dispute involved coverage issues regarding uninsured motorist coverage in Texas.

10. Deposition on September 17, 2003, a plaintiff's case testifying on behalf of the bankruptcy trustee for Boston Chicken, Inc., styled *Gerald K. Smith vs. Arthur Andersen LLP, et al.*, Case Nos. CIV-01-218-PHX-PGR, CIV-01-246-PHX-EHC, CIV-02-1162-PHX-PGR, CIV-02-1248-PHX-PGR (Consolidated), in the U.S. District Court for the District of Arizona. Retained by Bob McKirgan of Lewis & Roca, Phoenix, AZ (602) 262-5326. This dispute involves a question of whether there was a financial relationship between two defendants arising out of a common captive insurance arrangement.

11. Trial testimony on September 30, 2003, a plaintiff's case testifying on behalf of Allan Nowak in the case styled *Allan Nowak v. Lexington Insurance Company*, Case 02-23633-CIV-FAM, in the U.S. District Court, Southern District of Florida, Miami Division. Retained by Steven Simon of Simon & Dondero, Miami, FL, (305) 358-6033. This dispute involves a question of rescission of coverage on a Personal Articles Floater policy and whether the insured, Allan Nowak, conformed to the expectations of the application process and the terms and conditions of the policy as written.

12. Deposition on February 2, 2004, a plaintiff's case testifying on behalf of Lindsey Manufacturing Company, styled *MTDL Acquisition, LLC vs. The Travelers, and Prime Machine, Inc.*, Civil No. 990902560, in the District Court of the Third Judicial District for Salt Lake County, State of Utah. Retained by Jeff Eisenberg of Eisenberg & Gilchrist, LLC, Salt Lake City, UT, (801) 366-9100. This dispute involves the inappropriate cancellation of a property policy while adjustment of the claim and repairs were ongoing.

13. Testimony at trial by affidavit on February 27, 2004, a plaintiff's case testifying on behalf of Homestore, Inc., styled *TIG Insurance Company of Michigan v. Homestore, Inc., et al.*, Lead Case No. BC 265709, in the Superior Court of the State of California, County of Los Angeles. Retained by Donald Brown of Covington and Burling, San Francisco, CA, (415) 591-6000. This dispute involved policy rescission and materiality issues with a D&O policy as a result of the plaintiff's restatement of negative earnings.

14. Deposition on March 3, 2004, a policyholder's case testifying on behalf of JBA International, Inc., styled *St. Paul Mercury Insurance Co. v. JBA International, Inc.*, Case No. PD 01-297 MJD/JGL, in the U.S. District Court of the District of Minnesota. Retained by Rick Snyder of Fredrickson & Byron, Minneapolis, MN, (612) 492-7145. This dispute involves numerous underwriting and coverage issues surrounding a claims-made technology E&O policy.

15. Deposition on April 9, 2004, testifying on behalf of Leesa Bunch in the bankruptcy case of *IN RE: Hoffinger Industries, Inc., debtor v. Leesa Bunch and McMasker Enterprises, Inc.*, Case No. 01-20514, Chapter 11, A.P. No. 2:03 A.P. 01134 in the U.S. Bankruptcy Court for the Eastern District of Arkansas. Retained by Whitney Davis of Charter Davis, Sacramento, CA (916) 448-9000. This case involved the underwriting and pricing issues surrounding a captive insurance company whose only policyholder was Hoffinger Industries, Inc. and subsidiaries.

16. Deposition on May 18, 2004, testifying on behalf of defendant State Farm Insurance Co., styled *Gertrude Gardner, Inc. v. State Farm Mutual Automobile Insurance Company and Richard C. Frank*, Civil Action #02-3182, Section: "C"; Magistrate: (1), U.S. District Court, Eastern District of Louisiana. Retained by David Salley of Salley, Hite, Rivera & Mercer, New Orleans, LA, (504) 566-8801. This case involved uninsured/underinsured motorist claim of a company director on a policy with specified coverage.

17. Trial testimony on May 20 and 21, 2004, regarding the bankruptcy case of April 9 above, *IN RE: Hoffinger Industries, Inc.*
18. Perpetuation Deposition/Trial testimony on June 10, 2004, regarding Gertrude Gardner, Inc. matter of May 18 listed above.
19. Deposition on August 9, 2004, testifying on behalf of Skyline Displays and Gordon Savoie, styled *Gulf Insurance Co. vs. Skyline Displays, Inc. and Gordon Savoie*, Civil No. 02-3503 DSD/SRN, U.S. District Court, District of Minnesota. Retained by Laurie Kindel of Maslon, Edelman, Borman & Brand, Minneapolis, MN, (612) 672-8375. This case involved EPL D&O coverage in a disputed minority shareholder suit context.
20. Deposition on August 12, 2004, testifying on behalf of Plaintiffs, *James R. Bullock, Leslie W. Haworth, and John R. Grainger vs. National Union Fire Insurance Company of Pittsburgh, PA*, C/A No. 3:03-2261-17, U.S. District Court, District of South Carolina, Columbia Division. Retained by Ellen Robbins of Sidley, Austin, Brown, and Wood, LLP, Chicago, IL, (312) 853-2931. This case involved rescission and severability issues regarding individuals insured under a D&O policy
21. Preservation Deposition testimony used at trial on August 25, 2004, testifying on behalf of Aon Risk Services of Texas, Inc., styled *Synagro of Texas-CDR, Inc. dba CDR Environmental, Inc. vs. Aon Risk Services of Texas, Inc.*, No. 01-10-11717, District Court of Jackson County, Texas, 24th Judicial District. Retained by Richard Wilson of McFall, Sherwood & Breitbeil, Houston, TX, (713) 590-9333. This case involved issues of agent's E&O and coverage arising from reinsurance cut-through endorsements specific to exposures and prior policy periods.
22. Deposition on February 1, 2005, testifying on behalf of Plaintiffs, *Southern Natural Gas Co. vs. Certain Underwriters at Lloyd's, et al.*, Case No. CV 0106388, Circuit Court of Jefferson County, Alabama. Retained by Michael Miguel of Morgan, Lewis & Bockius, LLP, Los Angeles, Ca, (213) 612-7310. This case involved issues of underlying recognition in an umbrella's schedule of underlying insurance.
23. Deposition on February 25, 2005, testifying on behalf of Plaintiffs, *State National Insurance Co. et al. vs. Main Street Homes, Inc., et al.*, Cause # GN 301388, District Court, 261st Judicial District, Travis County, Texas. Retained by David Metzler of Cowles & Thompson, Dallas, TX, (214) 672-2000. This case involved application and underwriting issues of MGAs and agents.
24. Trial testimony on March 2, 2005, regarding the umbrella case above of February 1, *Southern Natural Gas Co. vs. Certain Underwriters at Lloyd's, et al.*

25. Deposition on March 23, 2005, testifying on behalf of Cardinal Health Inc., in the consolidated case for *Cardinal Health, Inc. et al. vs. Central Garden & Pet Co., et al.*, No. CV 2000-01617, in the Superior Court of the State of Arizona, in and for the County of Maricopa, Phoenix, Arizona. Retained by Dan Goldfine of Snell & Wilmer, L.L.P., Phoenix, AZ (602) 382-6000. This case involved the impact of a large fire loss on the subsequent insurance premiums for a warehouse exposure.

26. Deposition on April 13, 2005, testifying on behalf of City National Bank in the matter of Arbitration between IBAT Bond Trust and City National Bank, before a three judge Arbitration Board. Retained by Jeffrey A. Hage of Winstead, Sechrest & Minick, Dallas, TX, (214) 745-5400. This case involved underwriting issues and trust structure with regard to rescission claims on the part of a Self-Insurance Trust for Texas banks.

27. Deposition on May 3, 2005, testifying on behalf of Evans & Sutherland Computer Corp., styled as *Evans & Sutherland Computer Corp. v. Federal Insurance Company*, Case # CGC 03419926, in the Superior Court of California, County of San Francisco. Retained by Philip Pillsbury of Pillsbury & Levinson, LLP, San Francisco, CA, (415) 433-8000. This case involved coverage issues involving a Technology E&O Liability policy, and the extent of covered damages.

28. Trial testimony on May 10, 2005, regarding the Technology E&O Liability policy issues immediately above in *Evans & Sutherland Computer Corp. v. Federal Insurance Company*.

29. Trial testimony on June 8, 2005, testifying on behalf of Mike Cheap and Throckmorton Insurance Agency, styled as *High Plains Wireline Services, Inc. vs. National American Insurance Company, Inc., Mike Cheap and Throckmorton Insurance Agency* regarding issues discussed in the deposition of January 22, 2003 above.

30. Deposition on August 18, 2005, testifying on behalf of Medical Protective Company, styled as *Bob J. Herrin, M.D. vs. The Medical Protective Company et al.*, Cause No. 99-0316, in the District Court of Austin, Texas, 155th Judicial District. Retained by Steve Nagle of Gwinn & Roby LLP, Dallas, TX, (214) 698-4133. This case involved underwriting and loss issues surrounding the non-renewal of one of their doctor insureds.

31. Deposition on October 25, 2005, testifying on behalf of G-I Holdings, styled as *G-I Holdings, Inc. et al. vs. Reliance Insurance Company, et al.*, Docket Number 00-6189 (DMC) for the U.S. District Court for the District of New Jersey. Retained by Louis Chiafullo of McCarter & English, LLP of Newark, N.J. (973) 622-4444. This case involved underwriting issues with a claims-made Directors' and Officers' Liability insurance policy spanning multiple years and two different insurance companies.

32. Trial testimony on January on January 30, 2006, testifying on behalf of Medical Protective Company concerning case captioned in 30 above with regard to underwriting and loss issues surrounding non-renewal.

33. Deposition on March 21, 2006, testifying on behalf of Pulse Engineering, Inc., styled as *Pulse Engineering, Inc., and Technitrol, Inc. vs. Federal Insurance Company, and Pacific Indemnity Company*, Cause No. 49D13-0408-CT-01427 for the Marion Superior Court, State of Indiana, County of Marion. Retained by Donna Marron of Plews, Shadley, Racher & Braun, Indianapolis, IN (317) 637-0700. This case involved issues of notice of claim and denial of pollution coverage when case law became progressively more liberal over time.

34. Deposition on May 19, 2006, testifying on behalf of the Purdue Companies, styled as *Steadfast Insurance Company vs. The Purdue Frederick Company, et al.*, Case No. X08 CV 02 0191697 S (CLD) for the Superior Court, Complex Litigation Docket at Stamford, CT. Retained by David Kochman of Anderson Kill in N.Y., N.Y. (212) 278-1000. This case involved issues of the operation of a claims series or batch clause within the context of a claims-made product liability form, and aggregate depletion with regard to defense costs paid on behalf of indemnitees being considered damages within the 1993 ISO forms.

35. Testimony on January 17, 2007 at a bankruptcy hearing, testifying on behalf of bondholders, styled as *In Re: Premier Entertainment Biloxi LLC, Debtor et. al. and U.S. Bank as Trustee for bondholders, Chapter 11*, Case No. 06-50975 and Case No. 06-50976, in the U.S. Bankruptcy Court for the Southern District of Mississippi, Southern Division. Retained by James Killian of Maslon, Edelman, Borman & Brand in Minneapolis, MN (612) 672-8306. This case involved the availability and cost of hurricane coverage for policy years 2006/2007 and upcoming 2007/2008, the efficacy of catastrophe models used in placing limits, and the adequacy of coverage purchased.

36. Deposition on February 1, 2007, testifying on behalf of Standard Parking Corporation, styled as *Standard Parking Corporation vs. City of Phoenix*, No. CV2005-009129, in the Superior Court of the State of Arizona, County of Maricopa, AZ. Retained by Bret Rappaport of Schwartz Cooper Chartered of Chicago, IL (312) 845-5116. This case involved issues of insurance pricing and risk management costs and allocation of those costs among clients participating in a nationwide risk management program.

37. Deposition on April 4, 2007, testifying on behalf of Mary Kay Holding Corp., styled *Mary Kay Holding Corp., et al. v. Federal Insurance Company*, Civil Action No. 3-06CV-896-N, in the U.S. District Court for the Northern District of Texas, Dallas Division. Retained by Jason Dennis of Lynn, Tillotson & Pinker, Dallas, Texas (214) 981-3830. This case involved issues of insured status for various subsidiaries for COBRA claims on a Fiduciary Liability policy issued to Mary Kay Holding Corp., et al.

38. Deposition on May 7, 2007, testifying on behalf of Regional Reporting, Inc., styled *Best Resort Hotel, Inc. and Indian Harbor Insurance Company vs. Regional Reporting, Inc. et al.*, Cause No. 67-203716-04, in the District Court of Tarrant County, Texas, 67th Judicial District, Ft. Worth, Texas. Retained by Chase Laws of Wilson, Balido and Crain, Dallas, Texas, (214) 347-8355. This case involved professional liability coverage issues regarding a property inspection report and a significant subsequent fire loss.

39. Deposition on June 8, 2007, testifying on behalf of PepsiAmericas, Inc., a non-debtor interest in the bankruptcy proceeding *In Re: Federal-Mogul Global, Inc., T&H Limited, et al., Debtors*, In the United States Bankruptcy Court, District of Delaware, Chapter 11, Case No. 01-10578. Retained by Daniel Chefitz of Morgan Lewis & Bockius, Washington, D.C. (202) 739-5760. This case involved insured status and policy rights issues regarding an asbestos Trust being granted ownership rights for the insurance program of PepsiAmericas, Inc. and other non-debtors by court approval of an asbestos claims resolution plan.

40. Deposition on June 22, 2007, testifying on behalf of Herman Pang, M.D. in the coverage case *The Medical Protective Company v. Herman Pang, M.D., et al.* in the U.S. District Court for the District of Arizona, Case No. CV05-2924-PHX-JAT. Retained by defense counsel Timothy G. Kasperek, Esq. of Timothy G. Kasperek, PLLC, Goodyear, AZ, (623) 242-8945. This case involved rescission issues put forth by Medical Protective based upon alleged misrepresentations contained in the application with regard to “potential claims.”

41. Deposition on August 7, 2007, testifying on behalf of Melton Truck Lines, Inc. in the coverage case *Melton Truck Lines, Inc. et al. vs. Indemnity Insurance Company of North America, et al.*, in the U.S. District court for the Northern District of Oklahoma, No. 04-CV-263-JHP-SAJ. Retained by plaintiff’s counsel Neal E. Stauffer, Esq. of Stauffer & Graves, P.C., Tulsa, OK, (918) 592-7070. This case involved the calculation of damages due to significant increased insurance premium cost above the self-insured retention after a catastrophic automobile loss.

42. Deposition on June 5, 2008, testifying on behalf of Pulse Engineering, Inc. in the coverage case *Pulse Engineering, Inc. v. Federal Insurance Company, et al.*, in the U.S. District Court for the Southern District of Indiana, Indianapolis Division, Civil Action No. 1:06-cv-1237-LJM-JMS. Retained by Pulse’s counsel, Brett Nelson, Esq. of Plews Shadley Racher & Braun LLP, Indianapolis, IN, (317) 637-0700. This case involved proving up primary and umbrella CGL coverage in older years based upon partial policies and other documents.

43. Deposition on July 31, 2008, testifying on behalf of TIG Insurance Company in the arbitration between *TIG Insurance Company, Claimant, and General Reinsurance Corporation, Respondent*. Retained by TIG Insurance Company’s counsel, William M. Sneed of Sidley Austin LLP, Chicago, IL, (312) 853-7899. This case involved treaty issues between the parties regarding reinsurance coverage for Employment Related Practices Insurance claims within the TIG portfolio of umbrella policies.

44. Deposition on November 4, 2008, testifying on behalf of LaSalle Bank N.A. in the arbitration between *American International Specialty Lines Insurance Company, Claimant, and LaSalle Bank N.A., Respondent*. Retained by LaSalle’s counsel, Barry Armstrong of McKenna, Long & Aldridge, Atlanta, GA, (404) 527-4372. This case involved trigger and coverage issues with regard to claims submitted under Secured

Creditor Impaired Property policies issued to LaSalle as Trustee for properties securitizing collateralized mortgage obligation bonds. These policies provided a combination of pollution clean-up cost and credit risk arising from defaulted loans within the portfolios of bonds.

45. Deposition on November 20, 2008, testifying on behalf of California State University Risk Management Authority in the coverage case *The California State University Risk Management Authority vs. American International Specialty Lines Insurance Company*, in the U.S. District court, Central District of California, Los Angeles Division, Case No. CV 08-00710 R (JWJx). Retained by CalState's counsel, Michael Miguel of Morgan Lewis, Los Angeles, CA, (213) 612-7354. This case involved coverage issues surrounding a Third Party Administrator claims-made E&O policy with particular focus upon demand requirements and foreseeability by the insured for claim determination.

46. Arbitration testimony on December 9th and 10th, 2008, on behalf of TIG Insurance Company in the matter between *TIG Insurance Company, Claimant, and General Reinsurance Corporation, Respondent*, listed under the above deposition on July 31, 2008.

47. Deposition on January 20, 2009, testifying on behalf of Universal Insurance Company in the rescission case of *Percy D. Souder vs. Universal Insurance Company of Texas, et al.*, in the 192nd Judicial District Court, Dallas County, Texas, Case No. 07-11752. Retained by counsel for Universal, David Bradley of Walter Balido & Crain, L.L.P., Houston, Texas. (713) 781-0875. This case involved matters of rescission arising out of agent malfeasance, insured malfeasance and insurance fraud.