POLICYHOLDER ADVOCATE

JUNE 2026

ANDERSON KILL

This Issue//

Specialty Insurance Coverage for Rising Geopolitical Risks: Political Risk Insurance, Political Violence Insurance, and War Risk Coverage

Robert M. Horkovich
rhorkovich@andersonkill.com
212.278.1322

James A. Goodridge
jgoodridge@andersonkill.com
212.278.1202

Today's multinational corporations face a minefield of international conflicts threatening overseas operations, revenue streams, and global supply chains. By some metrics, there were at least eleven full-fledged wars in 2026 – marking the highest level of global volatility in a decade.

But as many policyholders find out too late, standard commercial property insurance programs may not be sufficient for managing these ever-increasing geopolitical risks. There are a host of reasons for this-- chief among the common exclusions proposing to limit or eliminate coverage for losses arising from war, warlike action, insurrection, rebellion, revolution, or seizure of power by unauthorized groups.

When crisis strikes, these exclusionary provisions only compound the pressure already weighing on corporate risk managers, who, in addition to securing the safety of overseas personnel and stabilizing compromised supply chains, must also respond to insurance company pushback demanding proof that a loss was triggered by a covered conventional peril or an excluded act of war. That evidentiary quagmire often involves an exhaustive investigation where critical data may remain inaccessible for years—or ultimately prove impossible to uncover in a war zone. While courts often construe these exclusions narrowly, vigilant policyholders must consider specialized coverage to plug these gaps.

To bridge these high-stakes exposure gaps, corporate policyholders rely on a triad of specialized solutions: Political Risk Insurance, Political Violence Insurance, and War Risk Insurance. Below, we break down how each of these products define coverage – as well as ambiguities that arise from policy language. Finally, we examine mixed outcomes in disputes over coverage for damages in conflict zones under conventional property policies.

Political Risk Insurance

Due to recent global turbulence, over half of 500 global corporations surveyed by the UK-based broker Howden experienced a political risk loss between 2020 and 2025. One means of adjusting for that risk is Political Risk Insurance.

Political Risk Insurance losses are commonly triggered by non-commercial, adverse government actions or political instability that disrupts business operations. Essentially, Political Risk Insurance pertains to government interference with ownership or contractual rights, without requiring that such interference involve violence. Commonly covered events include confiscation, nationalization, and expropriation of business property, as well as less direct involvement, in the form of contract frustration, currency conversion or transfer restrictions, licenses or permit cancellation, as well as refusal to honor or enforce arbitration awards.

...cont'd

Political Risk policyholders should promptly notify insurance companies of events likely to result in a claim, such as emerging government actions (e.g. threatened expropriation) or political violence. Policyholders must review specific language in their policies to determine scope of their notice obligation.

Political Violence Insurance

The standalone Political Violence Insurance market manages global conflict exposures through three distinct tiers of specialized coverage.

Policyholders must review specific language in their policies to determine scope...

Tier 1 handles sabotage and terrorism by covering force, violence, and subversive acts driven by political, religious, or ideological motivations.

Moving up, Tier 2 expands to protect against strikes, riots, civil commotion (SRCC), and malicious damage, which safeguards businesses from public disturbances, deliberate malicious acts, denial of access, and localized looting. Securing Tier 2 coverage has become increasingly urgent, as global SRCC losses skyrocketed to over $8 billion between 2020 and 2024, prompting many insurance companies to attempt to aggressively restrict or strip these exposures from standard commercial property policies.

For multinational enterprises requiring an additional layer of security, Tier 3 offers full political violence coverage. This tier provides the broadest available protection on the market by blending the perils of Tier 1 and Tier 2 with comprehensive coverage for catastrophic events like war, civil war, insurrection, rebellion, revolution, and coup d'état. These coverages are commonly custom-drafted to specific exposures with extensions for non-damage business interruption, contingent business interruption, denial of access, and loss of attraction. Vigilant policyholders should be alert to the growing coverage voids left by standard insurance programs and consider whether any or all of these tiers are needed to cover the risks they face.

As with all insurance policies, the devil is in the details, and policyholders must be aware of potential shortcomings associated with Political Violence Insurance. Coverage will often turn on the scope of the policy's definition of the risk at issue. Coverage for losses arising from "terrorism," for example, typically requires an act committed for political, religious, or ideological purposes with intent to influence the government or intimidate the public, whereas coverage for losses arising from "sabotage" may require deliberate destruction of property, but without the same ideological motivation. Civil commotion occupies a middle ground that is often difficult to distinguish from insurrection and rebellion – terms that may be

...cont'd

excluded from coverage or may fall under a different policy entirely.

Often, the nebulous boundary between riot and civil commotion can determine whether a loss is covered under a narrower or broader set of policy terms. Similarly, malicious damage is often the broadest category of Political Violence coverage, capturing intentional destruction that does not rise to the level of terrorism or civil commotion. The scope of malicious damage coverage varies significantly, however, across different policies and jurisdictions.

Often, the nebulous boundary between riot and civil commotion can determine whether a loss is covered...

War Risk Insurance

War Risk Insurance provides coverage for damage, loss, or liability resulting from acts of war, including invasion, insurrection, riots, and terrorism – making it a staple in the marine and aviation industries, as well as for countless companies relying on those industries. War Risk coverage often applies to assets like ships, cargo, and personnel in high-risk zones, and such coverage is often added to existing policies. These coverages can also be canceled on short notice (often seven days, sometimes as short as two-days' notice) if risks escalate, or re-rated with additional premium requirements.

The triggering events for War Risk coverage include insurrection, revolution, rebellion, civil war, military coups, sabotage, capture, seizure, detention, terrorism, and strikes. Determining which if any of these events caused your loss can be tricky. For example, in a seminal decision, the Second Circuit considered whether the triggering event was in fact an "Act of War". In Pan Am World Airways v. Aetna Cas. & Sur. Co., 505 F.2d 789 (2d Cir. 1974), the Second Circuit found that destruction of a hijacked airliner was an act of larceny, not an "act of war", where the group responsible for the hijacking was not a military or usurped power, or a de facto government, or even a quasi-sovereign entity.

Coverage for Conflict-induced Damage Under Conventional Policies

Political Risk, Political Violence, and War Risk policies exist because coverage under conventional property policies for damage that stems wholly or partly from conflicts of various kinds, when not obviously excluded, is often highly contested.

When considering such claims, courts often look to whether damage was caused by a conflict between governments. In Holiday Insurance v. Aetna Insurance Co., 571 F.Supp. 1460 (S.D.N.Y. 1983), for example, the court found the conflict surrounding a Holiday Inn in Beirut did not fall within the War Risk exclusion because the conflict was not between governments or quasi-governments, as the parties involved lacked sufficient attributes of sovereignty. Likewise, in several cases, policyholders successfully argued that the losses arising from the U.S. Panamanian incursion were covered because the military operation was not "war," despite involving Marines with fixed bayonet in a foreign country.

When damage occurs in a conflict zone, courts also consider what role military operations had in the loss. Thus in TRT/FTC Communications, Inc. v. Ins. Co. of State of Pennsylvania, 847 F. Supp. 28 (D. Del. 1993), when common civilian looters stole merchandise at gunpoint from a civilian clothing store, the court reasoned

dictator Manuel Noreiga. Similarly in Young Bros. & Co., Inc. v. Cigna Worldwide Ins. Co., 91 F.3d 13 (3d Cir. 1996) cert. denied, 519 U.S. 1077 (1997), the Third Circuit enforced the exclusion to merchants with stores located in Liberia, finding widespread theft and destruction of the merchants' properties occurred as a direct consequence of the factional, warlike fighting for geopolitical control of Liberia. As the case law demonstrates, it is important to be aware of recent definitional changes imposed by insurance companies. For instance, most policies leave critical terms undefined: "warlike operations," "hostilities," "seizure," "detainment," "constructive total loss."[A2.1]

Consider Jurisdiction

Managing these coverages effectively requires a proactive, disciplined approach throughout...

When evaluating coverage for international conflicts, businesses must carefully consider choice of law because marine and property policies handle global risks through drastically different legal frameworks. While maritime insurance typically mandates the application of English law, non-marine corporate policies frequently contain specific jurisdictional clauses that dictate which regional laws govern a coverage dispute. Furthermore, policies covering overseas projects or localized physical assets often invoke local law entirely, regardless of where the multinational company is headquartered. Navigating these conflicting mandates is critical, as the chosen jurisdiction ultimately determines whether a wartime loss is excluded or paid out.

* * *

Managing these coverages effectively requires a proactive, disciplined approach throughout the entire lifecycle of a policy. Initially, diligent policyholders should collaborate closely with their brokers to accurately identify organizational risks and determine appropriate coverage levels. During this phase, it is critical to carefully review policy definitions and exclusions to develop a clear understanding of what is and is not covered. Once operations are underway, be sure to report all known risks and actual losses in a timely manner to preserve your rights under the policy. In the event of a claim, continue working alongside your broker and experienced coverage counsel to pursue recovery, while critically analyzing the merits of any denials issued by the insurance company. Finally, always conduct a thorough cost-benefit analysis before pursuing a disputed insurance recovery, and, if pursuit is warranted, maintain the persistence necessary to see the process through to a successful resolution.

Mist Pharmaceuticals, LLC v. Berkley Insurance Company

The New Jersey Supreme Court, in *Mist Pharmaceuticals, LLC v. Berkley Ins. Co.,* No. 089689, 2026 WL 1278954 (N.J. May 11, 2026), recently held that an insurance company was not estopped from withdrawing its defense of a policyholder where the insurance company consistently reserved its rights under a policy exclusion throughout the course of a coverage dispute. In that case, the policyholder, Mist Pharmaceuticals, sued its insurance company, Berkley, to seek coverage after allegations arose that the Chair of the company's Board of Directors was engaged in self-dealing through Mist Pharmaceuticals and other entities he controlled.

After lawsuits were filed alleging the Board Chair's misconduct, Mist Pharmaceuticals[as1.1] sought coverage under their Director's and Officer's liability policy. Initially, the insurance company agreed to reimburse a portion of the legal fees but reserved all rights under the policy. Specifically, Berkley pointed to a "capacity exclusion" in the policy, asserting that coverage was not available for the allegations pertaining to the Chair's dealings with other, uninsured entities, only those involving the policyholder. Berkley later fully withdrew its participation in the defense of Mist and the Board Chair asserting, based on discovery, that the claim against them arose prior to the policy period.

Mist subsequently filed a coverage action, contending that the insurance company "had taken unjustified and inconsistent positions by agreeing to pay a portion of defense costs for a year and then denying coverage, terminating its contribution to defense costs, and declining to participate further in the defense prior to meditation." Berkley filed an answer and counterclaims seeking restitution of the legal fees it had already paid.

While the coverage matter was pending, Mist repeatedly requested that Berkley participate in negotiation of a global settlement. Berkley declined, reiterating that it believed it did not owe coverage.

The trial court entered judgment for Mist, requiring Berkley to provide coverage up to what remained of the policy limit. The Appellate Division reversed the trial court's holding and the Supreme Court of New Jersey granted certification.

The Supreme Court of New Jersey considered two questions: 1) whether the capacity exclusion applied to bar coverage and 2) whether the insurance company was precluded from asserting its rights under the capacity exclusion.

The Supreme Court first considered whether the capacity exclusion in the policy applied to bar coverage. The policy's capacity exclusion states that an insurance company will not be liable for loss in connection with a claim made against a policyholder

based upon, arising out of, directly or indirectly resulting from or in consequence of, or in any way involving any Wrongful Act of an Insured Person serving in the

...cont'd

Robert Chesler
rchesler@andersonkill.com
973.642.5864

Steven Pudell
spudell@andersonkill.com
973.642.5877

Kennedy Aldrich
kaldrich@andersonkill.com
212.278.1306

capacity as director, officer, trustee, employee, member or governor of any other entity other than an Insured Entity or an Outside Entity, or by reason of their status as director, officer, trustee, employee, member or governor of such other entity.

The Supreme Court of New Jersey found, consistent with its decision in *Norman International*, "the disjunctive 'or' means that each term in the exclusion is alone sufficient to bar coverage." Consequently, the Court found, "the exclusionary clause does not turn on a causal nexus between the excluded activities and harm alleged." Therefore, because all underlying claims arose out of the Board Chair's simultaneous involvement with Mist and other, uninsured entities, the Court held that the capacity exclusion applied to bar coverage.

The Court also considered whether Berkley was precluded from asserting its rights under the capacity exclusion after withdrawing defense coverage. The Court considered two cases relied on by Mist, *Fireman's Fund Insurance Co. v. Security Insurance Co.*, 367 A.2d 864 (N.J. 1976) and *Griggs v. Bertram* 443 A.2d 163 (N.J. 1982) but found that the cases were inapplicable to the situation at bar.

In *Fireman's Fund*, the insurance company breached its obligations under the policy and acted in bad faith. Thus, the court held that the insurance company forfeited its right to control the settlement of the underlying claims. Here, the Court held that because the policy did not cover Mist for the claims asserted, there was no basis for finding that Berkley acted in bad faith. Accordingly, Berkley did not forfeit any rights when it declined to participate in the global settlement of the claim when the claim was correctly determined not to be covered by the policy. Therefore, the Court found that *Fireman's Fund* was inapplicable.

In *Griggs*, a policyholder provided his insurance company with notice that a claim may be brought against him after he punched someone at a baseball game. Although the insurance policy excluded coverage for intentional torts, it "gave no indication that any potential claim of legal action arising from this incidence would not be covered under the policy or that it would disclaim coverage in the event such a claim or action were brought." The insurance company then disclaimed coverage based on the intentional tort exclusion 17 months later.

The *Griggs* court held that "where, after timely notice, adequate opportunity to investigate a claim, and the knowledge of a basis for denying or questioning insurance coverage," an insurance company "fails for an unreasonable time to inform the insured of a potential disclaimer, that insurer is estopped from later denying coverage under the insurance policy in the event a legal action is subsequently brought against its insured." Here, the Court found that the doctrine of estoppel as articulated in *Griggs* was not applicable because Berkley repeatedly and continuously reserved its rights under the capacity exclusion in its communications with Mist.

Ultimately, the New Jersey Supreme Court affirmed the case, as modified, and remanded it for proceedings in accordance with its opinion.

New Jersey policyholders should be warned that the *Griggs* decision may have

lost some of its force in light of the leverage insurance companies may gain by consistently reserving their rights throughout a coverage dispute. It is important to note, however, that the *Mist* court found that Berkly had substantive grounds to reserve its rights. The decision does not imply that an insurance company should be granted carte blanche to claw back coverage merely by purporting to "reserve its rights" pro forma, as many do. An insurance company's obligations to its policyholder should not be easily written off through a form letter – and no one should read the *Mist* decision as license to do so.

New York Law Confirms that Insurance Company Liability for Bad Faith Claims Handling Includes Third-Party Claims

Cort T. Malone
cmalone@andersonkill.com
212.278.1382

Jillian Balsamo
jbalsamo@andersonkill.com
212.278.1265

New York law recognizes a claim against insurance companies for breach of the implied covenant of good faith and fair dealing, specifically where the insurance company's handling of a claim frustrates the policy's purpose and results in damages beyond the mere failure to pay policy proceeds. In such circumstances, an aggrieved policyholder may recover consequential damages arising from the bad faith breach so long as it alleges: (1) the consequential damages flowed naturally and proximately from the breach; (2) the damages were, or reasonably should have been, foreseeable; and (3) the damages were within the reasonable contemplation of the parties when the insurance company sold the policy.

Although prior case law implied that New York permits bad faith claims in the third-party liability context, the Southern District of New York recently made that rule explicit in Renergy, Inc. v. Mt. Hawley Ins. Co., No. 25-CV-5073, 2026 WL 1192415 (S.D.N.Y. May 1, 2026). Following this decision, policyholders may pursue bad faith claims and seek consequential damages for bad faith claims handling of third-party coverage claims. The decision reinforces insurance companies' accountability and confirms that claims for such damages are valid under New York law.

In Renergy, plaintiff Renergy, Inc. ("Renergy") sued Mt. Hawley Insurance Co. ("Mt. Hawley") for its handling of a pollution claim covered under a Site-Specific Environmental Liability Insurance Policy sold by Mt. Hawley. While investigating the claim, Mt. Hawley retained an outside consultant to review Renergy's invoices and eventually adopted the consultant's conclusions. Subsequently, Renergy alleged that Mt. Hawley adopted the consultant's determinations without sufficient independent analysis and issued duplicative, burdensome document requests that resulted in Mt. Hawley's partial denial of coverage. As a result, Renergy sought consequential damages incurred from vendors' liens, late fees and penalties, and lost opportunities to sell the property due to those liens.

Bad Faith Claims in New York Are Not Limited to First-Party Insurance Claims.

After failed attempts to settle Renergy's breach of contract and bad faith claims against Mt. Hawley for its handling of Renergy's insurance claim, Renergy moved to amend its complaint to clarify and add facts to its bad faith claim. Mt. Hawley opposed the motion, arguing that the bad faith claim should be denied because New York does not recognize bad faith claims for third-party liability policies. The Court rejected this argument, holding that bad faith claims are cognizable under New York law in both first-party and third-party coverage contexts.

Although Renergy relied on cases involving first-party bad faith claims, the Court explained that those decisions did not "announce[] a categorical rule that bad faith claims handling claims" are unavailable outside that context. The Court also found the third-party case cited by Mt. Hawley inapposite, as summary judgment there

turned on insufficient factual allegations to sustain a bad faith claim. Furthermore, the Court pointed to a 2024 decision denying dismissal of a third-party coverage bad faith claim, confirming that adequately pled third-party bad faith claims could survive a motion to dismiss under New York law.

Renergy's Bad Faith Claim Was Not Duplicative of Its Breach of Contract Claim, and Renergy Adequately Pled Consequential Damages.

The Court continued its analysis, determining that Renergy's bad faith claim was not duplicative of its breach of contract claim because Renergy requested distinct damages and alleged separate conduct for each subset of damages. The breach of contract claim was based on the pure denial of coverage, while the bad faith claim was based entirely on Mt. Hawley's handling of the claim – namely, its failure to conduct a fair investigation, inadequate claims handling review, repetitive and unnecessary document demands, and shifting coverage positions.

Finally, the Court found it plausible that Mt. Hawley's denial of coverage and delayed claim handling resulting from an improper investigation and burdensome information requests caused Renergy's late fees, penalties, liens, and lost sale opportunities. Because these damages were also foreseeable, the Court held that Renergy adequately stated a claim for consequential damages.

Accordingly, the Court concluded that Renergy set forth a plausible cause of action for bad faith claims handling in the context of claims for third-party coverage. Going forward, any scenario involving similar dilatory and bad faith claims handling tactics for third-party claims in New York can follow the straightforward guideposts of the Renergy Court's holding in bringing valuable claims for consequential damages directly resulting from the insurance company's bad acts.

Follow the straightforward guideposts of the Renergy Court's holding in bringing valuable...

ANDERSON KILL

Known as the Policyholder Powerhouse™, Anderson Kill is a pioneer in insurance coverage litigation: we have more experience in litigating, trying and settling insurance coverage disputes than any other law firm. As the only four-time winner of Business Insurance's **Legal Team of the Year**, our firm has an extraordinary record of obtaining insurance coverage for policyholders in connection with all manner of insured losses. The firm has offices in New York, NY; Boston, MA; Los Angeles, CA; Newark, NJ; Philadelphia, PA; Shelton, CT; and Washington, DC.

We invite you to contact the authors with any questions.