

Insurance Cases To Watch In 2018, *Law360*, ft. Stefan Dandelles

Stefan R. Dandelles, partner in the Kaufman Dolowich & Voluck Chicago office, was quoted in a *Law360* article written by Jeff Sistrunk.

Law360, New York (January 1, 2018, 3:04 PM EST) — Courts across the country are primed to grapple with critical insurance issues in 2018, including whether email-based theft schemes trigger computer fraud coverage and whether policyholders must foot the bill for pollution claims in years insurance was unavailable for those risks.

Here, Law360 breaks down significant cases insurance attorneys will be tracking in 2018.

Medidata Solutions v. Federal Insurance Co., American Tooling Center v. Travelers

Both the Second and Sixth circuits are set to determine whether computer fraud insurance policies cover policyholders' losses from so-called "social engineering" schemes, in which criminals use fraudulent emails, phone calls and other deceptive communications to trick unwitting companies into wiring money to sham bank accounts. The appellate courts' decisions could provide key guidance on an issue that has divided courts across the country.

In the Second Circuit case, Federal Insurance Co. is seeking to reverse a New York federal court's ruling that it owes Medidata Solutions Inc. coverage for a \$4.8 million loss it suffered when it was tricked into wiring money overseas by a fraudster posing as a Medidata executive.

Meanwhile, tool manufacturer American Tooling Center Inc. has asked the Sixth Circuit to overturn a Michigan federal court's decision and find that Travelers must cover \$800,000 it lost when thieves posing as a vendor used fraudulent emails to deceive the company into wiring funds to a bogus bank account.

According to attorneys, the results of the two appeals could have serious financial implications for policyholders and insurers alike, given the rise of social engineering scams in recent years.

"Many businesses that have purchased cyber insurance (mostly to cover a data breach) and crime insurance (to cover first-party losses from computer fraud or funds transfer fraud) don't realize that in the era of social engineering, their insurance coverage may be slipping between these two types of policies, costing them millions in losses," Stefan Dandelles, a partner at Kaufman Dolowich Voluck LLP, said in emailed remarks.