



News

Scott Seaman Discusses Environmental Coverage Implications in a Legal Landscape Where "PFAS Claims are Here to Stay"

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Scott Seaman, co-chair of Hinshaw's Insurance Services Group, was cited in an *InsideEPA* article discussing the impacts of PFAS (per—and Polyfluoroalkyl Substances) personal injury claims on insurance carriers. He specifically highlighted the challenges in proving causation due to the widespread presence of PFAS and the absence of a unique disease linked to it.

Seaman also explored how pollution exclusions in both old and new insurance policies affect PFAS claims, the evolving legal landscape, and potential uncovered damages. Additionally, he highlighted how high-profile PFAS settlements drive changes in environmental insurance coverage, with insurers updating their strategies amid growing regulation and litigation.

InsideEPA excerpt:

"PFAS claims are here to stay," said Scott Seaman, an insurance attorney and partner at Hinshaw & Culbertson, during an October 2023 webinar by the legal education firm Strafford on environmental insurance coverage.

[...]

"It's going to be very hard establishing causation," said Seaman. "It's so ubiquitous, proving it was caused by one thing or one product as opposed to another will be difficult. And also, unlike asbestos [causing mesothelioma], you don't have any particular disease that is tied exclusively to PFAS."

[...]

Seaman further added in a May 15 article titled, "A Primer On PFAS/ Forever Chemical Claims: Regulation, Litigation, Large Losses & Insurance Coverage Issues," in Mealey's Litigation Report: Insurance, that "[a]s PFAS have been produced and used dating back to the 1930s and 1940s, many claims potentially implicate legacy as well as current insurance policies."

Some insurance policies, both old and new, contain "pollution exclusions," which have been the focus of recurring debates around liability based on whether PFAS should be considered a pollutant, including whether the discharge was "sudden and accidental" or whether the contamination

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issue involved "traditional" environmental pollution, according to the article.

"Some early decisions have held that pollution exclusions bar coverage for PFAS claims," Seaman wrote. "Courts have differed in their application of such exclusions in the context of PFAS-related claims as they have in the broader context of environmental coverage claims."

He added in the same article that "PFAS-related claims may also seek damages or other relief not covered under the particular policy at issue. For example, claims involving matters such as regulatory compliance costs, punitive damages, costs of doing business, economic loss, or medical monitoring may not be covered under liability policies."

[Read the full article](#) (*subscription may be required*).

- ["PFAS Litigation Prompting Changes To Environmental Insurance Coverage"](#) was published by *InsideEPA* on September 19, 2024.