

**A Study on the Professional Responsibilities of Insurance
Defense Lawyers under Circumstance of Conflicts of Interest
in Liability Insurance**

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Abstract

The function of current liability insurance has evolved from contract of indemnity into litigation insurance which provides the insured with financial security and peace of mind. One of the best ways to achieve the function is to provide with the assistance of defense in the claim which the third party victim filed against the insured. The insurer usually retains a lawyer to defend the claim for the insured. Although the retainer agreement is made for defending the claim for the insured, the defense lawyer may act to put the insurer's interests ahead of the insured's based on the long-term dependence on the insurer. The acts of defense lawyer are important especially under circumstances which there are conflicts of interest between the parties, which means the interests of each party differs from the others'. In recent years, there are plenty of researches related to lawyer's professional responsibility but none of those involves the professional responsibility of the defense lawyer who often faces the complicated situations of conflicts of interest. With the applicant's introducing the legal system in the United States where the development of liability insurance and the related affairs is the most blooming in the world, this paper includes scholar theories and judicial opinions in the clients, scopes of representation and standards of act of the defense lawyer while facing conflicts of interest. In conclusion, in addition to analyzing the related issues in Taiwan, this paper will try to establish the foundation of defense lawyer's profession responsibility in Taiwan and indicates

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some suggestions fit to our legal system with reference to the development in the United States. The author hopes that this paper can improve the system of lawyer's professional responsibility and accomplish the proper function of the related system of liability insurance.

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