

**John T. Seybert**  
**Special Counsel, New York, New York**

Insurance Litigation  
Healthcare



**JOHN T. SEYBERT**

212.422.0202 tel

212.422.0925 fax

john.seybert@sedgwicklaw.com

### Current Scope of Practice

John T. Seybert provides litigation defense on behalf of insurance and healthcare clients. He has represented insurers in over 200 state and federal court actions arising out of benefits claims under group and individual plans involving ERISA, COBRA, Medicare and Medicaid. Mr. Seybert has successfully defended insurance clients against claims for disability income, life insurance, medical services and pharmaceutical benefits. His litigation experience includes extensive motion practice, depositions, trials and appeals. Mr. Seybert is also a contributing author to a number of publications, including the American Bar Association, Defense Research Institute and the American Health Lawyers Association.

### Litigation Matters

- Mr. Seybert obtained a groundbreaking defense verdict in a federal case that parts with other federal precedent to uphold the explicit terms of a benefits plan's limitations period. Plaintiff filed an ERISA suit in the U.S. District Court (SDNY) to challenge denial of long-term disability benefits by our clients, an insurance carrier and a long-term disability plan. The judge held that judicial deference to written contractual obligations and to New York State law proscriptions on trigger dates for commencement of policy limitations periods justified ruling for our clients.
- Mr. Seybert successfully defeated plaintiff's motion for leave to amend her complaint to allege a class action on behalf of a putative national class of ERISA welfare benefit plan participants who allegedly had not been properly paid long-term disability (LTD) benefits by our client, the insurer. Mr. Seybert argued and proved that the benefit plan at issue unambiguously permitted offsets in the amount of Social Security Disability Income payments made to participants' dependent children to be deducted from plaintiff's monthly LTD benefit award, explained the need for such offsets and how the insurer fulfilled its fiduciary duty to preserve plan assets by deducting them. The District Court agreed and denied plaintiff's motion to amend as futile.

### Affiliations, Activities and Accomplishments

Mr. Seybert is admitted to practice in New York and Massachusetts. He is admitted to appear before the U.S. District Court for the Eastern, Southern, Northern and Western Districts of New York and the U.S. Court of Appeals for the Second Circuit.

Mr. Seybert received Touro Law School's 2005 pro bono award for his representation of indigent tenants in landlord-tenant court through the Volunteer Lawyers Project.

### Publications and Presentations

Mr. Seybert has written numerous articles on Healthcare matters. His published works include:

- “Recent Circuit Court Decisions May Limit Discovery in ERISA Health Benefit Litigation,” ABA’s *Health eSource* (February 2011).
- “Eighth Circuit Holds That Discretionary Clauses Must Appear in Both Policy and Summary Plan Description for Deferential Standard of Review,” Sedgwick *Healthcare Law Newsletter* (Fall 2010) (coauthored with Sedgwick attorney Michael H. Bernstein).
- “Supreme Court Rules that Litigant Need Not Be Prevailing Party to Recover Attorney’s Fees Under ERISA,” Sedgwick *Healthcare Law Alert* (May 2010) (coauthored with Sedgwick attorney Michael H. Bernstein).
- “Will the Mental Health Parity and Addiction Equity Act of 2008 Successfully Encourage Employers to Provide Benefits for Inpatient Mental Health Treatment?” ABA’s *Health eSource* (March 2010) (coauthor).
- “Full-Blown Discovery and Trial Ordered in Seventh Circuit on *De Novo* Review,” Sedgwick’s *Healthcare Law Newsletter* (Winter 2009/2010).
- “Eighth’s Circuit’s ERISA Holding Could Give Supreme Court Another Opportunity to Consider Scope of Equitable Relief,” Sedgwick’s *Healthcare Law Newsletter* (Spring 2009).
- “Second Circuit”, a chapter in *Misrepresentation in the Life, Health and Disability Insurance Application Process: A National Survey*, published by ABA’s Tort Trial & Insurance Practice Section (June 2009) (coauthored with Sedgwick attorney Michael H. Bernstein).
- “ERISA Discretionary Review in the Wake of *MetLife v. Glenn*,” AHLA’s Payors Plans & Managed Care (January 2009) (coauthored with Sedgwick attorney Michael H. Bernstein).
- “Everyone Pays The Price When Healthcare Providers Waive Patients’ Co-Insurance Obligations,” ABA’s *The Health Lawyer* (co-authored), (December 2008).
- “Two Circuit Courts Pause to ‘Determine’ Language Sufficient to Confer Discretion for Arbitrary and Capricious Review,” Sedgwick’s *Healthcare Law Newsletter* (co-authored), (Summer 2008).

- “New York’s Bill Requiring Public Disclosure of Physician Misconduct Charges Will Impact Medical Malpractice Litigation and Physicians’ Reputations,” (co-authored), ABA Health *eSource Newsletter* (August 2008).
- “Supreme Court Denies Certiorari on Scope of Damages Available Under ERISA §502(a)(3) for Welfare Benefit Plans” (co-authored), Sedgwick’s *Healthcare Law Alert* (June 2008).
- “ERISA: Michigan and Montana Don’t Like Discretionary Clauses,” Sedgwick’s *Healthcare Law Newsletter* (Spring 2008).
- “Is There Any Uniformity? ERISA’s Standard of Review for Structurally Conflicted Administrators” (co-authored), DRI’s *In-House Defense Quarterly* (April 2008).
- “State and Local Employer Healthcare Mandates: Preempted by ERISA?” (co-authored), DRI *Life, Health and Disability News* (Winter 2008).
- “Ninth Circuit Telegraphs Potential Circuit Split on Whether ERISA Preempts Employer Health Benefits Funding Mandates” (co-authored) Sedgwick *Healthcare Law Flash* (January 2008).
- “Will the U.S. Supreme Court Open The Door to ‘Make Whole’ Relief For Litigants Under ERISA?” Sedgwick’s *Healthcare Law Newsletter* (Winter 2007).
- “Tenth Circuit Holds Claimant Not Entitled to Comment on Medical Report Prepared at Appeal Level,” Sedgwick’s *Healthcare Law Newsletter* (Spring 2007).
- “You Can’t Get There From Here—ERISA Preemption of State Laws Mandating Employer Healthcare Contributions” (co-authored), ABA *Health eSource* (March 2007).
- “Keeping Confidences and Secrets in the Electronic Age,” *Committee News* (Summer 2006).

Mr. Seybert’s presentations include:

- “My Doctor Says I’m Not Ready: Assessing Treaty Providers’ Reliance on Claimants’ Self Report,” presented at the Eastern Claims Conference, New York, NY (February 2011).
- “State Regulation Affecting ERISA-Governed Plans—State of Confusion,” presented at the Eastern Claims Conference, New York, NY (February 2009).
- “Disability and Life Litigation Update,” presented at Sedgwick’s Healthcare Seminar, Hartford, CT (September 2007).

### Education

Mr. Seybert received his J.D. (1999) from St. John’s University School of Law, where he was articles and notes editor for the *American Bankruptcy Institute Law Review*. He graduated with a B.S. (1996) from Lehigh University.