



Joe Ramirez

Partner

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Joe provides clear strategies to his clients when they are faced with risk management and insurance coverage issues.

PRACTICES

Insurance Coverage and Risk Management
Commercial Litigation
Banking Litigation

EDUCATION

University of Denver, J.D., 2003
Order of St. Ives
Scholastic Excellence Award in Advanced Trial Practice and Insurance Law

University of California at Los Angeles, B.A., 1988
Political Science

BAR ADMISSIONS

Colorado

Having worked in the insurance industry before becoming an attorney, Joe understands the nuances of the insurance industry, and he can guide clients through the complexities of insurance coverage and, where necessary, coverage litigation.

He represents policyholders exclusively in a variety of insurance coverage cases. These cases include commercial general liability, commercial property, directors and officers, errors and omissions, life, health, fidelity and surety bonds, and excess/umbrella insurance. In addition, Joe consults business professionals on risk management issues, including maximizing the possibility of insurance coverage by examining existing exposures.

Joe's extensive experience in insurance coverage includes 15 years of supervising litigation for a \$5 billion national property and casualty company prior to law school. As a litigation supervisor, he was responsible for overseeing complex coverage disputes involving construction, environmental, and product liability cases.

CLIENT RESULTS

Representative Cases

Westcor v. Travelers, 2006 WL 1752338 (D.Colo), prevailed on motion for partial summary judgment preventing *Travelers* from removing a \$200 million earth movement extension of coverage at renewal

West Coast Life Ins. Co., v. Hoar, 558 F.3d 1151, (10th Cir. 2009), prevailed on a motion for summary judgment rescinding a \$3 million life insurance policy for misrepresentations in an application

Other Experience

Negotiated Coverage for Cyber related Defense Costs – A retail grocer defended, and succeeded in dismissing, a class action lawsuit claiming significant damages arising from an alleged data breach. Our client sought coverage for the litigation defense costs under the general liability policy. After the insurance company refused coverage, our client brought suit in Colorado District Court claiming the policy covered property damage including loss of use of property that had not been physically injured. The lead plaintiff had alleged that his credit card had been cancelled. The case

was settled on terms favorable to our client.

Coverage Action Dismissed on Summary Judgment – Succeeded in dismissing on summary judgment a \$3.2M coverage action against an insurance brokerage company by a trucking company claiming the broker failed to procure \$8M in excess coverage over its entire trucking fleet. In response to the brokers denial of excess insurance coverage because the truck involved in an accident was not covered under the policy, the insured brought an action claiming negligence, breach of contract, fraud, concealment, misrepresentation, and punitive damages.

Indemnity Coverage Validated – A flash fire at a gas well in New Mexico left several employees of a drilling subcontractor (driller) severely injured. The driller's employees sued, the well operator (operator), and other defendants, alleging the accident was the result of negligence.

The Master Services Contract (MSC) required that the driller name the operator as an additional insured in their contractor liability insurance policies. After being named in the employee personal injury action, the operator requested indemnity and defense pursuant to the MSC from the driller. The driller's insurer, denied any obligation to indemnify the operator. After entering its own defense in the employee personal injury action, the operator sued the driller and their insurance company for breach of contract, breach of defense obligations, and declaratory relief.

The insurance company brought a motion for summary judgment to dismiss the operators action contending the MSC indemnity provision was invalid, and the policy was void, because they violated New Mexico's Oilfield Anti-Indemnity Statute (Anti-Indemnity Statute), which precludes indemnity agreements that cover one's own negligence.

Because the operator was seeking indemnity only for damages awarded in the employee action (and its expenses in defending the action), relating to the operators vicarious liability resulting from the drillers fault, the court found the savings clause in the MSC did not require indemnity for "one's own negligence," and did not violate the Anti-Indemnity Statute. The court held the policy was valid and enforceable.

The insurance company then brought a motion for reconsideration, clarification, and interlocutory appeal or certification of a question to the Supreme Court of New Mexico. On rehearing, the court denied the insurance company's motions for reconsideration; refused to allow an appeal or to certify any legal questions. The court clarified its original order to state that the insurance company must indemnify the operator for liability arising from the fault of the driller.

PUBLICATIONS

"The Practitioner's Guide to Colorado Construction Law; Insurance for the Construction Project," *CLE in Colorado, Inc.*, 2018 supplement

"Is Your D&O Insurance the Strongest?," *Holland & Hart News Update*, Co-Author, 10/26/2017

SPEAKING ENGAGEMENTS

"#MeToo: Developments Regarding Workplace Sexual Harassment for Litigators and Insurance Professionals," *Moderator, 2019 Insurance Coverage Litigation Midyear Conference*, February 22, 2019

"Construction Insurance: What You Think You Know," *ABA Section of Litigation - Construction Litigation and Commercial and Business Litigation Committees*, February 2019

"Cutting Edge Issues in Cybersecurity - What Every Director & Officer Should Know," *Panelist, Lockton Law Day*, August 17, 2017

"The 'Occurrence' Issue In Construction Defect Litigation: Case Law, Legislation and Underwriting Reactions," *Panelist, ABA 25th Annual Insurance Coverage Litigation Committee Mid-Year Program*, February 25, 2017

"D&O Insurance - What you know can hurt you!," *RIMS Rocky Mountain Chapter*, February 23, 2017

RECOGNITION

- *The Best Lawyers in America*® Insurance Law, 2011-2020; Litigation-Insurance, 2018-2020
- Colorado Super Lawyers®, Rising Stars, 2012, 2013
- *Law Week Colorado*, Up-And-Coming Lawyers
- One of only 24 lawyers nationwide selected to be part of the American Bar Association's inaugural TIPS Leadership Academy, 2007
- Colorado Hispanic Bar Association, "The Outstanding New Hispanic Lawyer of 2005"

PROFESSIONAL AND CIVIC AFFILIATIONS

- Colorado Hispanic Bar Association, Past-President, 2008
- American Bar Association, Member
Membership Vice-Chair
Tort Trial and Insurance Practice Section
Insurance Coverage Litigation Committee, 2005-present
Task Force on Disaster Insurance Coverage, 2007-2008
Self-Insurers and Risk Managers Committee, Chair, 2013-2014
- Risk and Insurance Management Society, Member, 2009-present
- Colorado Bar Association, Member