

**CURRICULUM VITAE**  
**OF**  
**MITCHELL LEE LATHROP**

September 2020

**Licensed to Practice Law:**

Admitted to practice law in the following jurisdictions and courts:

- California
- New York
- District of Columbia
- U.S. Supreme Court
- U.S. Courts of Appeals for the Second, Fifth, Ninth, Tenth,  
District of Columbia and Federal Circuits
- U.S. District Courts for the Northern, Eastern, Central and Southern Districts of  
California, the Northern, Southern, Eastern and Western Districts of New York,  
the Eastern District of Michigan, the Southern District of Texas and the District of  
Columbia
- U.S. Tax Court
- U.S. Court of Appeals for the Armed Forces
- U.S. Court of International Trade
- U.S. Court of Federal Claims
- U.S. Court of Appeals for Veterans Affairs

Previously admitted *pro hac vice* for the handling of specific cases in Arkansas, Arizona, Colorado, Connecticut, Delaware, Idaho, Illinois, Indiana, Iowa, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, Vermont, Washington, Wisconsin and West Virginia.

**Educational Background:**

Preparatory education at The Thacher School, Ojai, California. B.Sc. in Engineering, United States Naval Academy, Annapolis, Maryland. J.D., University of Southern California Law School. Postgraduate education: Securities Law, University of Southern California Law School. Environmental Engineering, Industrial Waste Conference, Purdue University, 1988, 1989. Insurance & Reinsurance Arbitration, ARIAS-US, annual courses since 1997. International Commercial Arbitration, Paris, 2005. Diplomat in International Arbitration Law, College of Law of England and Wales. Certificate in Advanced Mediation, Straus Institute for Dispute Resolution, Pepperdine University School of Law. Advanced mediation training, International Institute for Conflict Prevention and Resolution ("CPR").

**Recognitions:**

*Best Lawyers'* 2012 San Diego Insurance Law Lawyer of the Year

A.M. Best Recommended Insurance Expert

Martindale-Hubbell "A" rated in both California and New York

Listed in *The Best Lawyers in America* (2006-present)

Listed in *Super Lawyers* (2005-present)

Lawyer representative to the Ninth Circuit Judicial Conference from the  
U.S. District Court for the Southern District of California (2011-2014)

**Reported Decisions on Insurance and Reinsurance:**

Served as counsel in the following cases involving insurance in which appellate decisions were rendered:

- (1) *AIU Insurance Co. v. Superior Court (OIL Insurance Limited)*, 177 Cal.App.3d 281, 222 Cal.Rptr. 880 (1986).
- (2) *Fireman's Fund v. Ex-Cell-O Corporation*, 685 F.Supp. 621 (E.D. Mich. 1987); 702 F.Supp. 1317 (E.D. Mich. 1988), *later decision*, 720 F.Supp. 597 (E.D. Mich. 1989).
- (3) *Liberty Mutual Ins. Co. v. Insurance Corp. of Ireland*, 693 F.Supp. 340 (W.D. Pa. 1988).
- (4) *Leksi, Inc. v. Federal Insurance Co.*, 129 F.R.D. 99 (D.N.J. 1989), *later decision*, 736 F. Supp. 1331 (D.N.J. 1990).
- (5) *Westinghouse v. Aetna Casualty & Surety*, 227 N.J.Super. 504, 547 A.2d 1167 (1988), *rev'd*. 233 N.J. Super. 463, 559 A.2d 435 (1989).
- (6) *AIU Insurance Co. v. Superior Court (FMC Corp.)*, 51 Cal.3d 807, 274 Cal.Rptr. 820, 799 P.2d 1253 (1990).
- (7) *United States Fidelity & Guaranty Company v. Morrison Grain Company, Inc.*, 734 F.Supp. 437 (D. Kan. 1990), *aff'd*, 999 F.2d 489 (10th Cir. 1993).

## Reported Decisions (cont'd):

- (8) *Grisham v. Maryland Casualty Co.*, No. 88-3063, W.D. Ark., February 9, 1989, *aff'd* 927 F.2d 1039 (8th Cir. 1991), *aff'd on rehrg.*, 951 F.2d:872 (8th Cir. 1991), *rehrg. and suggestion for rehrg. en banc denied*, 1992 U.S. App. LEXIS 835 (8th Cir., January 24, 1992).
- (9) *Sangamo Weston, Inc. v. National Surety Corp.*, 307 S.C. 143, 414 S.E.2d 127 (S.C. S.Ct. 1992).
- (10) *Oklahoma Publishing Co. v. Kansas City Fire and Marine Ins. Co.*, 805 F. Supp. 905 (W.D. Okla. 1992).
- (11) *Fibreboard Corporation v. Puritan Insurance Co.*, 1993 Cal. LEXIS 1946 (Cal. App. 1993) (unpublished).
- (12) *Armstrong World Industries, Inc. v. Aetna Casualty & Surety Co.*, 35 Cal.App.4th 192, 26 Cal.Rptr.2d 35 (1993), *mod. on denial of rehrg.* December 13, 1993; *rev. granted* January 27, 1994; *trans.* October 19, 1995 to Ct. App., 1st Dist., Div. 1, *with directions to vacate its decision and reconsider in light of Montrose Chemical Corp. v. Admiral Ins. Co.*, 10 Cal. 4th 645 (1995); *later decision*, 45 Cal.App.4th 1, 52 Cal.Rptr.2d 690 (1996).
- (13) *Shell Oil Company v. Winterthur Swiss Insurance Company, et al.*, 12 Cal.App.4th 715, 15 Cal.Rptr.2d 815 (1993), *as modified*, February 22, 1993, 1993 Cal. App. LEXIS 156.
- (14) *A.Y. McDonald Industries, Inc. v. Insurance Company of North America*, 842 F. Supp. 1166 (N.D. Iowa 1993).
- (15) *Insurance Co. of North America v. Gould, Inc.*, 1994 Ohio App. LEXIS 3360 (Ohio App., July 28, 1994).
- (16) *First State Insurance Co. v. Minnesota Mining and Manufacturing Co.*, 535 N.W.2d 684 (Minn. App. 1995).
- (17) *Ieyoub ex rel. Louisiana v. American Tobacco Co.*, 1997 U.S. Dist. LEXIS 24219 (W.D. La., September 11, 1997), *later decision*, 1999 U.S. Dist. LEXIS 21742 (W. D. La., March 12, 1999).
- (18) *Aerojet-General Corp. v. Transport Indemnity Insurance Co.*, 50 Cal.App.4th 354, 53 Cal.Rptr.2d 398 (1996); *aff'd in part, rev'd in part*, 17 Cal. 4th 38, 70 Cal. Rptr. 2d 118, 948 P.2d 909 (1997).

### Reported Decisions (cont'd):

- (19) *County of Santa Clara v. United States Fidelity & Guarantee Co.*, 1999 U.S. App. LEXIS 7623 (9th Cir., April 19, 1999) (unpublished).
- (20) *Dow Corning Corp. v. Continental Casualty Co., Inc.*, 1999 Mich. App. LEXIS 2920 (Mich. App., October 12, 1999).
- (21) *SMI-Owen Steel Co. v. St. Paul Fire & Marine Insurance Co.*, 199 F.R.D. 209 (S.D. Tex. 2001), *later decision*, 2006 U.S. Dist. LEXIS 12232 (S.D. Tex., March 7, 2006).
- (22) *Liggett Group, Inc. v. Affiliated FM Ins. Co.*, 2001 Del. Super. LEXIS 385 (Del. Super. Ct., New Castle County, October 1, 2001), *aff'd sub nom. Liggett Group Inc. v. Ace Prop. & Cas. Ins. Co.*, 798 A.2d 1024 (Del. 2002).
- (23) *Consolidated Edison Company of New York, Inc. v. Allstate Ins. Co.*, 283 A.D.2d 322, 724 N.Y.S.2d 853 (2001), *leave to appeal granted*, 97 N.Y.2d 603, 760 N.E.2d 1288, 735 N.Y.S.2d 492 (2001), *aff'd*, 98 N.Y.2d 208, 774 N.E.2d 687, 746 N.Y.S.2d 622 (2002).
- (24) *Low v. Golden Eagle Insurance Co.*, 104 Cal.App.4th 306, 128 Cal.Rptr.2d 423 (2002).
- (25) *In re Golden Eagle Insurance Company in Liquidation (Low v. Cogan)*, 2002 Cal. App. Unpub. LEXIS 10830 (Cal. App., November 22, 2002) (unpublished).
- (26) *Home Insurance Co. v. Appleton Papers, Inc.*, 2002 U.S. Dist. LEXIS 213 (S.D.N.Y., January 8, 2002).
- (27) *Philadelphia Indemnity Ins. Co. v. Employers Ins. Co. of Wausau*, 318 F.Supp.2d 170 (S.D.N.Y. 2004).
- (28) *In re: Kaiser Aluminum Corp.*, 343 B.R. 88 (D. Del. 2006).

### Publications - Articles on Insurance and Reinsurance:

- (1) "Apportioning Cleanup Costs at Superfund Sites: The Cost Allocation Method," Defense Research Institute, February, 1987 (with Andrew C. Harvey).
- (2) "Coverage Issues in the Handling of Environmental Insurance Claims," monograph, February, 1987 (with Kathy P. Waring).

**Publications - Articles (cont'd):**

- (3) "An Overview of Superfund and its Impact on Commercial Transactions," California Bankers Association, Bank Counsel Seminar, April, 1987.
- (4) "Environmental Insurance Coverage," monograph, December, 1987.
- (5) "Discovery of Computer-Based Litigation Support Systems," California Continuing Education of the Bar, June, 1988.
- (6) "How Did We Get Here? An Overview of Issues Affecting Environmental Insurance Coverage," Northwest Center for Professional Education, July, 1988.
- (7) "Excess Umbrella and Reinsurance Issues in Environmental Cases," Defense Research Institute, October, 1988.
- (8) "Evaluating and Reporting Environmental Exposures for Financial Statements and Securities Law Compliance," Executive Enterprises, Inc., November, 1988 (with Frederick W. Lambert).
- (9) "Disputes Between Direct Insurers," Practicing Law Institute, March, 1989 (with Kimball Ann Lane).
- (10) "Basic Environmental Insurance Law and Practice (Property and Casualty)," monograph, April, 1989.
- (11) "Environmental and Toxic Tort Claims from the Insurer's Perspective" Practicing Law Institute, May, 1989.
- (12) "The Environmental Engineer as an Expert in Litigation," *Proceedings 44th Purdue Industrial Waste Conference*, (1989), reprinted in 2 *Env. Claims Jour.* 65 (1989).
- (13) "Environmental Insurance Coverage Litigation and Issues," California Judges' Conference, The Rutter Group, 1989.
- (14) "Attorney-Client Privilege and Attorney Work Product in the Context of Environmental Insurance Coverage Litigation," Defense Research Institute, 1989.
- (15) "Disputes Between Direct Insurers," Practicing Law Institute, 1990.
- (16) "Environmental Insurance Coverage Disputes from the Perspective of the Insurer," Practicing Law Institute, 1990.

**Publications - Articles (cont'd):**

- (17) "Insuring Environmental Risks," *Business Insurance Law and Practice*, Matthew Bender, 1990.
- (18) "Attorney-Client Privilege and Attorney Work Product Immunity in Insurance Coverage Litigation," Defense Research Institute, 1990.
- (19) "Personal Injury and Advertising Injury Coverage in the Context of Environmental Insurance Coverage Litigation," Defense Research Institute, August, 1991.
- (20) "Excess Insurance and Insurance Coverage Litigation," American Bar Association, Insurance Coverage Litigation Committee, March, 1993.
- (21) "Reinsurance," Defense Research Institute, October, 1993.
- (22) "Environmental Insurance Coverage: The Current Crisis," HazMat West, April, 1994.
- (23) "Reinsurance and Environmental Claims," Executive Enterprises, May, 1994.
- (24) "Are Declaratory Judgment Costs Recoverable from Reinsurers? A Supplement," Strategic Research Institute, May, 1994.
- (25) "Where the Buck Stops, Reinsurance in 1994 and After," Defense Research Institute, October, 1994.
- (26) "ECO/XPL: Who Pays What?," Strategic Research Institute, January, 1995.
- (27) "What Every Lawyer Ought to Know about Reinsurance (But Too Few Do)!" San Diego County Bar Association, Insurance/Bad Faith Section, June, 1995.
- (28) "Reinsurance Disputes: The Three Big Topics in Today's Reinsurance Industry," Strategic Research Institute, June, 1995.
- (29) "Settlement Techniques in MGP and Environmental Insurance Coverage Cases: Thoughts from the Trenches," Fulcrum Information Services, Inc., May, 1996
- (30) "Current Developments in Reinsurance," Defense Research Institute, June, 1996.
- (31) "Mediating Reinsurance Insolvency Disputes," American Bar Association Section of Business Law, June, 1996.

## **Publications - Articles (cont'd):**

- (32) “Breast Implant Insurance Coverage Litigation from the Insurers’ Perspective,” Mealey’s Breast Implant Litigation Conference, September, 1996.
- (33) “Tobacco-Related Litigation and the Insurance Industry: Where Will it Go?” Fulcrum Insurance Coverage for Tobacco and Tobacco-Related Litigation & Liability Conference, November, 1996.
- (34) “Insolvency and Reinsurance: The Search for Assets and the Battle for the Funds,” New York State Bar Reinsurance Litigation and Arbitration Program, November, 1996.
- (35) “Trigger of Coverage and Allocation of Losses Between Reinsurers and Cedents,” Reinsurance Association of America, Environmental Conference, January, 1997.
- (36) “Case Study - Tobacco,” Mealey’s Emerging Insurance Battles Conference, February, 1997.
- (37) “Insurance Implications of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards,” Zurich Reinsurance Centre, Inc., Conference on Emerging Issues in the Professional Liability Arena, January, 1997.
- (38) “Private Cleanup Cost Recovery and Compliance with the National Contingency Plan,” *Environmental Claims Journal*, vol. 10, no. 2, pg. 59, Winter, 1998.
- (39) “Insurance Implications of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards,” 1 Jour. Ins. Coverage 30 (1998).
- (40) “It’s Only A Question of ‘Zeros’ and ‘Ones’: The Year 2000 Problem,” Mealey’s Emerging Insurance Battles Conference, 1998.
- (41) “It May Already Be Too Late: An Analysis of the Millennium Bug,” Monograph for in-house corporate seminars, 1998.
- (42) "Tobacco-Related Litigation: How Will it Affect The Insurance Industry," National Insurance Law Review, vol. 9, no. 1, 1998, NILS Publishing Company.
- (43) “A Realistic Look at Terrorism Trials by Military Commission,” November 2001, <http://news.findlaw.com/cnn/docs/terrorism/lathrop.trials.112001.pdf>.

### **Publications - Articles (cont'd):**

- (44) “The Changing Face of Expert Evidence,” 52 F.D.C.C. Quarterly 409 (2002).
- (45) “Current Developments in Selected Reinsurance Issues” (September 2004).
- (46) “Property Insurance in a Post-Katrina World,” 2007 Joint International Conference, Defense Research Institute, International Association of Defense Counsel, and Federation of Defense and Corporate Counsel (May 2007)
- (47) “Special Issues with Wrap-up Insurance,” Mealey’s Wrap-Up Insurance Conference (June 2008)
- (48) “Climate Change and Insurance,” Lexis-Nexis Matthew Bender (July 2008)
- (49) “Insurance Coverage and the World Trade Center,” National Forum for Environmental and Toxic Tort Issues (September 2008)
- (50) “Bad Faith Pitfalls,” Claims and Litigation Management Alliance (2014)
- (51) “Independent Counsel? Maybe!”, The Seminar Group (2017)
- (52) “Class Arbitration”, Insurance Counsel Journal (2018)
- (66) "Brokers' Dilemma", Insurance Journal (2019)

### **Publications - Books:**

- (1) *Insurance Coverage for Environmental Claims*, LexisNexis Matthew Bender, 1992. Updated annually. Last update in August 2020, to be released in December 2020.
- (2) *Environmental Insurance Coverage: State Law and Regulation*, Juris Publishing, Inc., 1991-2004. No longer in print.
- (3) *Computer Technology in Civil Litigation*, Bancroft-Whitney, 1990.
- (4) “Computers and the Law Office,” 54 *Am Jur Trials*, Bancroft-Whitney, 1990.

### **Lathrop Cited in:**

- (1) *University of South Carolina v. Royal Insurance Co.*, 1993 U.S. Dist. LEXIS 18961 (D.S.C., March 25, 1993).



### **Lathrop Cited in (cont'd):**

- (2) *City of Edgerton v. General Casualty Co. of Wisconsin*, 172 Wis. 2d 518, 493 N.W.2d 768 (Wis. App. 1992), *later decision*, 184 Wis. 2d 750, 517 N.W.2d 463 (1994).
- (3) *Weyerhaeuser Co. v. Aetna Casualty and Surety Co.*, 123 Wn.2d 891, 874 P.2d 142 (1994).
- (4) *Pittston Co. v. Allianz Insurance Co.*, 905 F. Supp. 1279 (D.N.J. 1995).
- (5) *Caldo Oil Co. v. State Water Resources Control Board*, 44 Cal. App. 4th 1821, 52 Cal. Rptr. 2d 609 (1996).
- (6) *Olds-Olympic, Inc. v. Commercial Union Insurance Co.*, 129 Wn.2d 464, 918 P.2d 923 (1996).
- (7) *Weyerhaeuser Co. v. Commercial Union Insurance Co.*, 142 Wn.2d 654, 15 P.3d 115 (2000).
- (8) *California v. Continental Insurance Co.*, 169 Cal. App. 4th 1114 (2009), *later decision*, 170 Cal. App. 4th 160, 88 Cal. Rptr. 3d 288 (2009), *aff'd*, 55 Cal. 4th 186, 281 P.3d 1000, 145 Cal. Rptr. 3d 1 (2012).
- (9) *Landmark Am. Ins. Co. v. Liberty Surplus Ins. Corp.*, 2014 U.S. Dist. LEXIS 190535 (C.D. Cal., April 9, 2014).
- (10) *Ins. Co. of the State of Pennsylvania v. County of San Bernardino*, 2017 U.S. Dist. LEXIS 185541 (C.D. Cal., July 24, 2017).

### **Teaching and Lecturing:**

Lectured on various aspects of insurance and reinsurance law and arbitration for the following organizations:

- (1) American Bar Association - American Law Institute
- (2) Continuing Education of the Bar, State Bar of California
- (3) Business & Corporations Law Section, Los Angeles County Bar Association
- (4) Advanced Management Research, Inc., New York
- (5) Continuing Legal Education, State Bar of Minnesota

**Teaching and Lecturing (cont'd):**

- (6) Loyola University of Los Angeles, School of Law (guest lecturing appearances)
- (7) University of San Diego School of Law, San Diego (guest lecturing appearances)
- (8) Western State University, School of Law (guest lecturing appearances)
- (9) Practicing Law Institute, New York
- (10) Association of Business Trial Lawyers, Los Angeles
- (11) American Board of Professional Liability Attorneys
- (12) Stanford Law School, Palo Alto (guest lecturing appearances)
- (13) California Bankers Association
- (14) Executive Enterprises, Inc., New York
- (15) Northwest Center for Professional Education, Bellevue, Washington
- (16) Purdue University, School of Civil Engineering, 44th Industrial Waste Conference
- (17) Defense Research Institute
- (18) The Rutter Group, Los Angeles
- (19) California Judges' Association
- (20) Chicago Reinsurance Conference
- (21) Member, National Editorial Board, Class Action Reports, 1979-1994
- (22) Fulcrum Information Services, Inc., New York
- (23) New York State Bar Association
- (24) Mealey's Publications, Inc.
- (25) Reinsurance Association of America, Washington, DC

### **Teaching and Lecturing (cont'd):**

- (26) Zurich Reinsurance Centre, Inc., New York, NY
- (27) Software Productivity Group
- (28) Glasser LegalWorks
- (29) Center for International Legal Services (“CILS”)
- (30) International Institute for Conflict Prevention and Resolution (“CPR”)
- (31) The Seminar Group

### **Expert Witness Engagements:**

Retained as an expert witness on insurance or reinsurance in the following public record matters. Expert consultation and testimony in arbitrations or matters subject to confidentiality, is omitted due to the confidential nature of those proceedings. (This is a partial list, based upon recollection with respect to older matters.):

- (1) *Zurich Insurance Co. v. Transamerica Insurance Co.*, Calif. Superior Court, San Diego County - Served as an expert on insurance policy interpretation and insurance coverage
- (2) *Interstate Consultants, Inc. v. American National Fire Ins. Co.*, Calif. Superior Court, Los Angeles County - Served as an expert to render an opinion on whether a particular insurance policy provided coverage and, if so, whether the insurer had a duty to defend and/or indemnify
- (3) *Fireman’s Fund Insurance Co. v. Younesi*, Calif. Superior Court, Los Angeles County - Served as an expert on the standard of care and the standard of conduct for insurance-appointed defense counsel, the standard of care for claim handling, and billing practices of counsel
- (4) *Williams v. Williams*, Calif. Superior Court, Los Angeles County - Served as an expert on environmental insurance coverage and run-off insurance companies
- (5) *Acheson & Graham Mortuary, Inc. v. Northwestern National Insurance Co.*, U.S.D.C., Central District of California - Served as an expert on the duty of a liability insurer in California to investigate claims and defend its insured, and proper claim handling procedures

## Expert Witness Engagements (cont'd):

- (6) *Avery Dennison Corp. v. Aetna Casualty & Surety Co.*, Calif. Superior Court, Los Angeles County - Served as an expert witness on environmental insurance coverage and bad faith under California law on behalf of an insurer
- (7) *Blue Cross of California v. Boiler Engineers Co., Inc.*, Calif. Superior Court, Los Angeles County - Served as an expert witness on the custom and practice of claim handling in an environmental pollution case
- (8) *Kaiser Aluminum & Chemical Corp. v. Fireman's Fund Ins. Co.*, Calif. Superior Court, San Francisco County - Served as an expert witness on custom and practice in the insurance industry, insurance claims handling, and bad faith under California law
- (9) *Elan Pharmaceutical Research Corp. v. Employers Insurance of Wausau*, U.S.D.C., Northern District of Georgia, Gainesville Division - Testified as an expert on the standard of care of insurers in claim handling and the investigation requirements of insurers when presented with a claim
- (10) *Washington Schools Risk Management Pool v. American Protection Insurance Co.*, U.S.D.C., Western District of Washington - Served as an expert witness on the rights and obligations of a cedent, a reinsurer and a retrocessionaire with respect to an underlying liability case settlement involving a risk retention group
- (11) *LG Infocomm U.S.A. v. Euler American Credit Indemnity Co.*, U.S.D.C., Southern District of California - Served as an expert witness on the obligations of an accounts receivable insurer
- (12) *R. L. Alia Company v. Royal and Sun Alliance Ins. Co.*, Washington Superior Court, King County - Served as an expert witness regarding the scope of coverage provided to an additional insured
- (13) *Clarendon America Ins. Co. v. Century Surety Co.*, Calif. Superior Court, Los Angeles County - Served as an expert witness regarding custom and practice in the insurance industry, policy construction, and "other insurance" clauses
- (14) *Alta Healthcare v. Comrisk Insurance*, U.S.D.C., Central District of California - Served as an expert witness on the underwriting and placing of insurance and reinsurance for healthcare organization employees

## Expert Witness Engagements (cont'd):

- (15) *Rio Vista West Apartments, LLC v. Willis Insurance Services of California*, Calif. Superior Court, Orange County - Served as an expert witness regarding custom and practice of brokers, agents and insurers in the excess and surplus lines insurance market
- (16) *Stewart Title Guaranty Co. v. Brea Hospital Properties, LLC*, U.S.D.C., Central District of California - Served as an expert witness on insurance policy interpretation and insurance industry custom and practice in a title insurance dispute
- (17) *Nelson v. Zurich American Insurance Co.*, U.S.D.C., District of Arizona - Served as an expert witness on the duty of an insurer to defend and indemnify its insured
- (18) *Clarendon National Insurance Co. v. Tool Touring, Inc.*, Calif. Superior Court, Los Angeles County - Served as an expert witness on insurance policy interpretation and insurance industry custom and practice
- (19) *Taisei Construction Corporation v. Clarendon America Insurance Company*, Calif. Superior Court, San Mateo County - Served as an expert witness on insurance policy interpretation and insurance industry custom and practice
- (20) *Brea Hospital Properties v. Snell & Wilmer*, Calif. Superior Court, Orange County - Served as an expert witness on insurance policy interpretation, insurance industry custom and practice, and the standard of care required of lawyers in California
- (21) *Professional Recreation Organization, Inc. v. National Union Fire Insurance Company*, U.S.D.C., Western District of Washington - Served as an expert witness on claim handling procedures and bad faith as it relates to employment practices liability insurance
- (22) *Continental West Insurance Company v. Lexington Insurance Company*, U.S.D.C., Western District of Washington - Served as an expert witness on claim handling and coverage dispute between two liability insurers
- (23) *Rachal v. Colony Insurance Company*, Calif. Superior Court, San Diego County - Served as an expert witness on the standard of care and the standard of conduct for insurance brokers and agents

## Expert Witness Engagements (cont'd):

- (24) *WG Development LLC v. Probuilders Specialty Insurance Company RRG*, Calif. Superior Court, San Diego County - Served as an expert witness on insurance policy interpretation, insurance industry custom and practice, and the standard of care for claim handlers in commercial insurance matters
- (25) *Centrix Financial Liquidating Trust v. National Union Fire Insurance Company*, U.S. Bankruptcy Court for the District of Colorado - Served as an expert witness on coverage under fidelity bonds and the standard of care for claim handlers in commercial insurance matters
- (26) *Contractors Access Program of California v. Majestic Capital, Ltd.*, Calif. Superior Court, San Francisco County - Served as an expert witness on the standard of care and the standard of conduct required of attorneys in California
- (27) *Cottage Health System et al. v. Travelers Casualty and Surety Company of America*, Calif. Superior Court, Santa Barbara County - Served as an expert witness on the standard of care and the standard of conduct required of D&O and liability insurers in California
- (28) *Transportation Alliance Bank, Inc. v. BancInsure, Inc.*, U.S.D.C., D. Utah - Served as an expert witness on coverage under financial institution bonds and the standard of care for claim handlers in bank insurance matters
- (29) *MidMountain Contractors v. American Safety Indemnity Co.*, U.S.D.C., Western District of Washington - Served as an expert witness on the duties and obligations of insurers in construction disputes where issues of additional insureds and indemnity are involved
- (30) *Liberty Insurance Corp. v. Southwest Traders*, U.S.D.C., C.D. Cal. - Served as an expert witness on claim investigation and handling by primary workers' compensation insurers
- (31) *Point Center Financial v. First American Title Insurance Co.*, Calif. Superior Court, Orange County - Served as an expert witness on coverage and the standard of care for claim handling by a title insurance company
- (32) *Palm Desert University Village LLC v. W. L. Butler Construction, Inc.*, Calif. Superior Court, Orange County - Served as an expert witness on the custom and practice of insurers and the standard of care expected of insurers handling liability claims

### Expert Witness Engagements (cont'd):

- (33) *The Phoenix Insurance Co. v. Infogroup, Inc.*, U.S.D.C., S. D. Iowa - Served as an expert witness on coverage and the standard of care of property insurers in handling claims
- (34) *Nucor Corporation v. Employers Insurance of Wausau*, U.S.D.C., D. Ariz. - Served as an expert witness on the standard of care and standard of conduct for insurers and insureds
- (35) *Harrison v. Bankers Standard Insurance Co.*, U.S.D.C., S.,D. Cal. - Served as an expert witness on the custom and practice of insurance agents and brokers in placing risks, and the standard of care expected of insurance agents and brokers
- (36) *KKH LLC v. Accardo & Aghai Insurance Services, Inc.*, Calif. Superior Court, Los Angeles County - Served as an expert witness on the custom and practice of insurance agents and brokers in placing risks, and the standard of care expected of insurance agents and brokers
- (37) *Stork v. Chartis Claims, Inc.*, Calif. Superior Court, Los Angeles County - Served as an expert witness on the custom and practice and standard of care of directors' and officers' insurers in handling claims and determining coverage under directors' and officers' policies
- (38) *Khodayeki v. Gaylord*, Calif. Superior Court, Los Angeles County - Served as an expert witness on the custom and practice of insurance agents and brokers in placing risks, and the standard of care expected of insurance agents and brokers
- (39) *Steelcase, Inc. v. Nationwide Indemnity*, U.S.D.C., C.D. Cal. - Served as an expert witness on the standard of care of liability insurers
- (40) *Kan-Di-Ki LLC v. Indian Harbor Insurance Co.*, Calif. Superior Court, Santa Barbara County - Served as an expert witness on the standard of care of insurers in handling liability claims
- (41) *Central Puget Sound Regional Transit Authority v. Lexington Insurance Co.*, U.S.D.C., W.D. Wash. - Served as an expert witness on the standard of care of insurers in handling liability and environmental claims
- (42) *The Santa Barbara Smokehouse, Inc. v. Agro America LLC* - Calif. Superior Court, Santa Barbara County - Served as an expert witness on insurance policy construction and interpretation, and the standard of care of insurers and insurance agents and brokers in handling liability claims

## Expert Witness Engagements (cont'd):

- (43) *National Continental Insurance Co. v. Anchor General Insurance Co.*, Calif. Superior Court, San Bernardino County - Served as an expert witness on insurance policy construction and interpretation, and the standard of care of insurers in handling liability claims
- (44) *Ruiz v. Underwriters at Lloyd's, London* - Calif. Superior Court, Riverside County - Served as an expert witness on the standard of care expected of insurers and insurance policy interpretation
- (45) *Dryden Oaks, LLC v. County of San Diego* - Calif. Superior Court, San Diego County - Served as an expert witness on underwriting property insurance and the availability of coverage
- (46) *Underwriting Group Inc v. Michael Feldman Insurance Services* - Calif. Superior Court, Los Angeles County - Served as an expert witness on the standard of care and the standard of conduct of agents and brokers in a case involving a risk purchasing group
- (47) *Ahmadpoor v. Farmers Insurance Group* - Calif. Superior Court, San Diego County - Served as an expert witness on the standard of care and the standard of conduct of property insurers in handling claims
- (48) *Cottage Health System v. Admiral Insurance Co.* - U.S.D.C., Central District of California - Served as an expert witness on the standard of care of insurers handling liability claims and the reasonableness of insurer's conduct in claim handling
- (49) *Kim Laube & Co. v. Travelers Indemnity Co.* - Calif. Superior Court, Los Angeles County - Served as an expert witness on the standard of care of liability insurers in handling claims
- (50) *US Construction Law v. Clarke* - Calif. Superior Court, San Diego County - Served as an expert witness on the standard of care and the standard of conduct expected of attorneys practicing in California
- (51) *Brandt v. Certain Underwriters* - Calif. Superior Court, Los Angeles County - Served as an expert witness on the standard of care of insurers and counsel in handling bodily injury, premises liability, and discrimination claims
- (52) *Evanston Insurance v. Ironbridge Homes, LLC* - District Court, Garfield County, Colorado - Served as an expert witness on the standard of care of insurers in handling claims under commercial lines policies



## Expert Witness Engagements (cont'd):

- (53) *Oemick v. Pasha* - Calif. Superior Court, San Diego County - Served as an expert witness on policy construction, reasonable expectations and claim handling under an automobile liability policy
- (54) *Insurance Company of the State of Pennsylvania v. County of San Bernardino*, U.S.D.C., Central District of California - Served as an expert witness on the standard of care of insurers in handling claims under excess commercial lines policies
- (55) *San Diego Community College District v. Safeco Insurance* - Calif. Superior Court, San Diego County - Served as an expert witness on the standard of care for commercial liability insurers issuing surety bonds
- (56) *St. Paul Mercury Insurance Co. v. McMillin Companies LLC* - U.S.D.C., Southern District of California - Served as an expert witness on the standard of care of insurers with respect to additional insureds in construction cases
- (57) *Endurance American Specialty Insurance Co. v. Admiral Insurance Co.* - Calif. Superior Court, San Diego County - Served as an expert witness on the standard of care of retail and wholesale insurance brokers and agents
- (58) *Travelers Property Casualty Company of America v. Ashton Park Residential Investors, LLC* - Calif. Superior Court, Riverside County - Served as an expert witness on the standard of care of insurers issuing commercial general liability policies and the right to be reimbursed for the defense of non-covered claims
- (59) *Nationwide Mutual Insurance Co. v. Certain Underwriters at Lloyd's, London* - U.S.D.C., Northern District of California - Served as an expert witness on the standard of care of insurers issuing commercial general liability policies and errors & omissions policies
- (60) *Certain Underwriters At Lloyd's, London v. AMCO Insurance Co.* - U.S.D.C., Central District of California - Served as an expert witness on the standard of care and the standard of conduct of insurers issuing commercial general liability policies
- (61) *McMillin Homes Construction, Inc. v. Ironshore Specialty Insurance Co.* - Calif. Superior Court, San Diego County - Served as an expert witness on the standard of care of insurers issuing commercial general liability policies to construction companies

## Expert Witness Engagements (cont'd):

- (62) *Stratacare, LLC v. Beazley Insurance Company* - Calif. Superior Court, San Francisco County - Served as an expert witness on the standard of care of retail and wholesale insurance brokers and agents
- (63) *Insko Insurance Services, Inc. v. Federal Insurance Company* - U.S.D.C., Central District of California - Served as an expert witness on the standard of care required of insurers issuing Directors' and Officers' ("D&O") liability policies
- (64) *Luebeck v. Stonewood Insurance Services* - Calif. Superior Court, San Diego County - Served as an expert witness on the standard of care of retail insurance brokers and agents, and insurers issuing automobile liability policies
- (65) *Union Insurance Company v. Curb South, LLC* - U.S.D.C., District of New Mexico - Served as an expert witness on the standard of care of insurers issuing commercial general liability policies
- (66) *McMillin Homes Construction, Inc. v. Zurich American Insurance Co.*, Calif. Superior Court, San Diego County - Served as an expert witness on the standard of care of insurers issuing commercial general liability policies to construction companies
- (67) *Dell Webb California Corp. v. Travelers Casualty & Surety Co.* - Calif. Superior Court, Orange County - Served as an expert witness on the standard of care of insurers in construction defect cases
- (68) *Godinez v. Forbing* - Calif. Superior Court, Los Angeles County - Served as an expert witness on the standard of care of insurance brokers and agents
- (69) *Certain Underwriters at Lloyd's London v. Phelps Dunbar LLP* - U.S.D.C., Central District of California - Serving as an expert witness on the standard of care of appointed defense counsel handling cases involving costs within limits
- (70) *Local Motors, Inc. v. Catlin Specialty Ins. Co.* - U.S.D.C., District of Colorado - Served as an expert witness on the standard of care of property insurers
- (71) *Preeo Silverman Green & Egle PC v. S. Thomas Throne* - Wyoming District Court - Served as an expert witness on the standard of care and standard of conduct of professional liability insurers
- (72) *Frank v. Navigators Ins. Co.* - Calif. Superior Court, San Diego County - Served as an expert witness on the standard of care and the standard of conduct for professional liability insurers

## Expert Witness Engagements (cont'd):

- (73) *McMillin Management Services v. Financial Pacific Insurance Co.* - Calif. Superior Court, San Diego County - Serving as an expert witness on the standard of care expected of claim handlers and insurers issuing commercial general liability policies in California, as well as insurance industry custom and practice, and the standard of care required of appointed defense counsel
- (74) *England v. Interinsurance Exchange* - Calif. Superior Court, Ventura County - Served as an expert witness on the standard of care and the standard of conduct for professional liability insurers
- (75) *Health Net, Inc. v. American International Specialty Lines Insurance Co.* - Calif. Superior Court, Los Angeles County - Served as an expert witness on the standard of care and the standard of conduct for professional liability insurers
- (76) *Bonair Street Associates LLC v. Gemini Insurance Company* - Calif. Superior Court, San Diego County - Served as an expert witness on the standard of care required of property insurers
- (77) *Kaufman v. Federal Insurance Company* - Calif. Superior Court, Los Angeles County - Served as an expert witness on the standard of care required of insurers issuing liability policies and claim the standard of care required of claim handlers and Managing General Agents
- (78) *San Diego Electrical Training Trust v. Teague Insurance Agency, Inc.* - Calif. Superior Court, San Diego County - Served as an expert witness on the standard of care required of attorneys in California as well as the standard of care required of insurance brokers and agents
- (79) *APR Construction, Inc. v. San Diego Housing Commission* (and related cases) - Served as an expert witness on the standard of care and the standard of conduct required of sureties, general liability insurers, and counsel involved in contract and construction defect cases
- (80) *Hartford Fire Insurance Co. v. Galaxy Theatres LLC*, U.S.D.C., Central District of California - Served as an expert witness on the standard of care and the standard of conduct required of general liability insurers
- (81) *Old Republic General Insurance Co. v. Integrity Rebar Placers, Inc.*, Calif. Superior Court, Riverside County - Served as an expert witness on the standard of care required of insurers issuing property insurance

## Expert Witness Engagements (cont'd):

- (82) *Pacific Coast Surgical Center, L.P. v. Scottsdale Insurance Company*, U.S.D.C., Central District of California - Served as an expert witness on the standard of care and the standard of conduct required of general liability insurers, and the reasonableness of attorneys' fees
- (83) *2Shirts-N-1Skirt, LLC dba Luke's on Front v. United States Liability Insurance Co., et al.*, Calif. Superior Court, Riverside County - Served as an expert witness on the standard of care required of insurers issuing property and casualty insurance, as well as brokers obtaining such insurance for clients
- (84) *Seneca Specialty Insurance Company v. DB Insurance Company, Ltd.* - U.S.D.C., Central District of California - Served as an expert witness on the standard of care required of general liability insurers
- (85) *McMillin Homes Construction, Inc. v. Clarendon America Insurance Co.* - California Superior Court, San Diego County - Serving as an expert on the standard of care expected of claim handlers and insurers issuing commercial general liability policies in California, as well as insurance industry custom and practice
- (86) *Aguilar v. Ahn* - California Superior Court, Alameda County - Serving as an expert on the standard of care expected of lawyers in California, the standard of care for insurers issuing commercial general liability policies in California, the right to a defense provided by an insurer, and the reasonableness of attorney's fees
- (87) *St. Paul Fire and Marine Insurance Co. v. United Specialty Insurance Co.*, Nevada District Court, Clark County - Serving as an expert on the standard of care and standard of conduct of insurance agents and brokers, and the standards and requirements for endorsing or amending insurance policies, as well as insurance industry custom and practice
- (88) *Zurich American Insurance Co. v. Covil Corporation*, U.S.D.C., Middle District of North Carolina - Serving as an expert on insurance regulatory organizations, insurance document retention, lost policy issues, and allocation between insurers covering long-tail loss
- (89) *Kuhlman Electric Corp. v. The Travelers Indemnity Co.*, Circuit Court for the First Judicial District of Hinds County, Mississippi - Serving as an expert on the standard of care and the custom and practice of the insurance industry when dealing with allocation in long-tail, continuous injury cases

- (90) *Four Winds Distribution, LLC v. Cincinnati Insurance Company*, U.S.D.C., District of Colorado - Serving as an expert on insurance industry custom and practice in the interpretation of policy language and the standard of care in handling cyber claims
- (91) *Jeffrey B. Panosian v. Bristol Farms, Inc.*, Calif. Superior Court, Santa Barbara County - Serving as an expert on the priority of recovery between dual insureds
- (92) *Woodbridge Liquidation Trust v. Certain Underwriters at Lloyd's of London*, California Superior Court, Los Angeles County - Serving as an expert on the standard of care and the standard of conduct required of claim handlers and underwriters in connection with commercial property loss

**Professional Memberships & Offices Held:**

- (1) American Board of Trial Advocates, 1969-Present
- (2) Judge Advocates Association, 1968-Present  
Chairman, Southern California Chapter, 1978
- (3) American Board of Neutrals Association
- (4) State Bar of California, 1966-Present
- (5) California State Bar Court, 1967-1987  
Disciplinary Examiner, 1967-1971  
Local Administrative Committee Member, 1971-1976  
Disciplinary Board Member, 1976-1978  
State Bar Court, Hearing Referee, 1978-1980; 1987-1989  
State Bar Court, Executive Committee, 1978-1988  
State Bar Court, Review Department Referee, 1980-1982  
State Bar Court, Assistant Presiding Referee and  
Chairman, Review Department, 1982-1985  
State Bar Court, Presiding Referee, 1985-1987
- (6) Los Angeles County Bar Association, 1966-1979  
Chairman, Medical-Legal Relations Committee, 1971  
Member, Press-Bar Relations Committee, 1971-1973  
Delegate to the Conference of Delegates, 1972-1977
- (7) San Diego County Bar Association, 1977-Present  
Vice-President, 1985-1986  
Director of the Association, 1982-1986  
Ethics Committee, 1978-1982; Chairman, 1981 and 1982  
Federal Court Committee, 1978-1981; Chairman, 1980

ADR Section Executive Committee, 2019-Present

**Professional Memberships & Offices Held (cont'd):**

- (8) American Bar Association, 1966-Present
  - Committee on Officers, Directors and Professional Liability, Section of Torts and Insurance Practice, 1971-2012
  - Committee on Securities Laws, Section of Litigation, 1977-2012
  - Environmental Litigation Committee, Section of Litigation, 1985-2012
  - Insurance Coverage Litigation Committee, Section of Litigation, 1987-Present
  - Association of Professional Responsibility Lawyers, 1990-Present
  
- (9) International Association of Defense Counsel, 1977-Present
  - Legal Malpractice Committee, 1978-1984 (Vice Chairman, 1982)
  - Toxic and Hazardous Substance Litigation Committee, 1984-2012
  - Reinsurance Committee, 1995-2012
  - Board of Editors, *Defense Counsel Journal*, 1997-2015
  
- (10) Federal Bar Association, 1975-Present
  - Advisory Board, San Diego Chapter (2011-2014)
  
- (11) Bar Association of the District of Columbia, 1966-Present
  
- (12) Association of Business Trial Lawyers
  - Los Angeles Chapter, 1975-1980
  - San Diego Chapter, 1992-Present
  
- (13) Association of Southern California Defense Counsel, 1968-2012
  
- (14) Federal Bar Council (Second Circuit), 1982-2020
  
- (15) Bar Association of the City of New York, 2007-2016
  
- (16) Legion Lex, University of Southern California Law School
  - Director, San Diego Chapter, 1987-1991
  - Vice President, San Diego Chapter, 1987-1989
  - President, San Diego Chapter, 1989-1990
  
- (17) San Diego Todd American Inn of Court, 1992-Present
  
- (18) California Insurance Commissioner's Environmental Liability Insurance Task Force, project completed and report issued in February 1994.

### **Professional Memberships & Offices Held (cont'd):**

- (19) Fellow, Center for International Legal Studies, Salzburg, Austria, 2002-2018
- (20) Board of Editors, *Journal of Insurance Coverage*, Aspen Law & Business, 1997- 2015
- (21) International Bar Association, 2005-2016
- (22) Claims & Litigation Management Alliance, 2011-Present

### **Military Service:**

On active service from 1959 to 1964. Active reserve, 1964 to 1998. Vietnam service. Armed Forces Expeditionary Medal, Vietnam Service Medal, National Defense Service Medal. Presently, Captain, Judge Advocate General's Corps, U.S. Naval Reserve (Retired).

### **Professional Employment:**

2012-Present: Independent arbitrator, mediator, and expert witness. Practice consists of domestic and international arbitration and mediation; and insurance and reinsurance matters. Expert witness engagements limited to insurance, reinsurance, and lawyers professional responsibility.

2009-2012: Member, Mintz, Levin, Cohn, Ferris, Glovsky & Popeo, P.C., New York and San Diego. Practice consisted of domestic and international arbitration and litigation; insurance and reinsurance matters; environmental law; commercial, banking, securities and complex civil litigation. Expert witness engagements limited to insurance, reinsurance and lawyers professional responsibility.

2003-2009: Partner and Of Counsel, Duane Morris LLP, New York and San Diego. Practice consisted of domestic and international arbitration and litigation; insurance and reinsurance matters; environmental law; commercial, banking, securities and complex civil litigation. Expert witness engagements limited to insurance, reinsurance and lawyers professional responsibility.

1994-2003: Partner, Luce, Forward, Hamilton & Scripps LLP, San Diego, New York, San Francisco and Los Angeles. Practice consisted of domestic and international arbitration and litigation; insurance and reinsurance matters; environmental law; commercial, banking, securities and complex civil litigation.

1986-1994: Senior partner, Adams, Duque & Hazeltine, New York, Los Angeles, San Diego and San Francisco. Member of the Executive Committee of the Firm. Firm Chairman, 1992-1993. National environmental counsel for groups of property and casualty insurance companies. Practice consisted of environmental law; insurance coverage issues; reinsurance arbitration and litigation; civil litigation involving the defense of accountants and attorneys; and complex business litigation.



**Professional Employment (cont'd):**

1980-1986: Partner, Rogers & Wells, New York and San Diego. Partner-in-Charge, San Diego Office, 1980-1986. Practice consisted of complex civil litigation, principally involving environmental law, federal and state securities laws; and insurance and reinsurance law.

1971-1980: Partner, Macdonald, Halsted & Laybourne, Los Angeles and San Diego. Partner-in-Charge, San Diego office, 1976-1980. Practice consisted of civil litigation, principally in the areas of federal and state securities laws; complex business litigation; the defense of accountants, attorneys and officers and directors of publicly-held companies; and insurance and reinsurance arbitration and litigation.

1968-1971: Associate Attorney and subsequently Partner, Brill, Hunt, DeBuys & Burby, Los Angeles. Practice consisted of civil litigation, primarily in the areas of aviation defense, eminent domain, products liability and professional liability defense; and reinsurance arbitration and litigation.

1966-1968: Deputy County Counsel, County of Los Angeles. Practice consisted of civil litigation, primarily in the area of general liability defense. Principal clients were the Los Angeles County Sheriff's Department and Los Angeles County General Hospital.

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