



Stephen J. Erigero
445 South Figueroa Street
Suite 3000
Los Angeles, CA 90071
Direct: (213) 312-2013
Office: (213) 312-2000
Fax: (213) 312-2001
Email: stephen.erigero@rmkb.com
Web: www.rmkb.com

Stephen J. Erigero specializes in commercial litigation, including defense of professional liability claims, insurance bad faith and coverage litigation, D&O liability, complex construction litigation involving design professionals, and environmental and toxic torts. He represents clients in both California and Nevada courts.

Mr. Erigero defends corporations, limited liability companies, officers and directors, and managing members in matters alleging ownership and management disputes, claims for breach of fiduciary duty and other business disputes.

He also advises architects, engineers, and contractors on business and litigation matters. His recent case load also involves the defense of 1st party and 3rd party insurance coverage claims related to directors and officers, Homeowner Associations, and bodily injury and property damages. He provides consultation on several insurance issues related to insurance agency issues, construction losses, and other "claims made" policies and personal and advertising injury coverages. Mr. Erigero was selected for inclusion in *Southern California Super Lawyers*® magazine in 2006 and 2009 through 2019.

Stephen Erigero is a graduate of Loyola Marymount University in Los Angeles, and University of California Hastings College of the Law in San Francisco and joined the firm in 1985. He has been in the firm's Los Angeles office since 1993. He is admitted to practice in California, Nevada and Minnesota.

Practice Areas

- ❖ Business And Commercial Litigation
- ❖ Class Action/Complex Litigation
- ❖ Construction
- ❖ Environmental
- ❖ Insurance Services
- ❖ Bad Faith
- ❖ Coverage
- ❖ Professional Liability
- ❖ Insurance Agents and Brokers
- ❖ Real Estate Agents and Brokers

- ❖ Real Estate
- ❖ Toxic Tort

Education

- ❖ Loyola Marymount University, 1982 B.A.
summa cum laude
- ❖ University of California, Hastings College of the Law, 1985 J.D.

Court Admissions

- ❖ California
- ❖ Minnesota
- ❖ Nevada
- ❖ USDC: Central District of California
- ❖ USDC: Eastern District of California
- ❖ USDC: Northern District of California
- ❖ USDC: Southern District of California

Memberships & Associations

- ❖ Association of Southern California Defense Counsel
- ❖ Defense Research Institute (DRI)
- ❖ Risk Insurance Management Society (RIMS)
- ❖ State Bar of California

Representative Experience

Practice Area: Construction, Coverage, Insurance Services

Key Issues: Insurance Coverage; Landlord Tenant Claims

Venue: Sonoma County Superior Court

Client Type: Defendant Insurance Company

Description: Retained as coverage counsel by an insurer to evaluate a landlord tenant litigation. The rental property was in the rural Russian River area. The allegations included mold, retaliatory eviction, failure to repair, damage to personal property, relocation costs and attorney fees. The policy only covered third party property damage, excluded mold and did not cover rent rebate claims.

Result: Successfully evaluated the case and assisted in settling the case at an MSC, convincing the insured to contribute to the settlement and dismiss rent claims. We were able to convince the settlement judge and the plaintiff's counsel of coverage issues which would impact the collection of any potential judgment.

Practice Area: Bad Faith, Insurance Services

Key Issues: Duty to Defend; Judgment Creditor Suit; Personal Injury defense

Venue: Los Angeles Superior Court

Client Type: Defendant Insurance Company

Description: Represented the insurer of a salon in a case in which a party was injured as a result of pedicure, and obtained a judgment and assignment of the defendant's right to obtain insurance benefits. The plaintiff sued as a judgment creditor and as an assignee of the insured.

Result: The case settled for a confidential amount after discovery showed medical specials and wage loss did not support the total amount of the judgment, and after our analysis of coverage issues indicated the insurer ran a risk of not prevailing on the showing that the policy did not apply to the loss.

Practice Area: Construction

Key Issues: Action for Property Damage as a Result of Construction at Adjoining Property

Venue: Los Angeles County Superior Court

Client Type: Plaintiff Property Owner

Description: Represented the plaintiff, a property owner of an 11 unit apartment complex, in an action against a neighbor for property damage as a result of the loss of lateral support due to an excavation by a developer building a condominium complex on an adjoining parcel.

Result: The case settled after the retention of experts, leaving sufficient funds to repair our client's property damage and pay for the experts that were retained.

Practice Area: Bad Faith, Insurance Services, Mold, Toxic Tort

Key Issues: Insurance; Mold

Venue: USDC: Central District of California

Client Type: Defendant Insurer

Description: Represented an insurer in an action for breach of contract and bad faith arising out of a denial of a first party claim for mold personal injury and property damage. The plaintiff policyholder contended that significant items of personal property sustained damage as a result of mold in an apartment complex. The insurer denied coverage contending it was the landlord's responsibility. The plaintiff tenant sued under a renter's policy. We successfully argued application of the mold exclusion, argued the statute of limitations for the items potentially covered and achieved a favorable confidential settlement.

Result: The case settled for a confidential amount within the contractual limits, applying the mold exclusion.

Practice Area: Bad Faith

Key Issues: Defamation, Crime Policy, Insurance Bad Faith

Venue: Los Angeles Superior Court

Client Type: Defendant Insurance Carrier

Description: Defended an insurance carrier in an action for insurance bad faith and defamation arising out of the payment of a claim under a crime policy by an insurer upon proof of loss from the insured and the resulting subrogation action filed by the insurer against the alleged perpetrator of the crime.

Result: The carrier paid the loss to the insured, but the plaintiff did not have sufficient evidence to establish the theft by the individual sued for recovery, dismissing the case with prejudice. The individual sued for defamation and malicious prosecution. The case settled for a confidential amount.

Practice Area: Construction, Insurance Services

Key Issues: Property Damage

Venue: US Court of Appeals for the Fourth Circuit

Client Type: Defendant Window Manufacturer

Description: Addressed class action allegations against a window manufacturer in an action for property damage in a multi-home subdivision arising out of an alleged product defect. The plaintiffs sought to expand the litigation into a state wide class action for all homes with the same manufactured window assembly.

Result: The court denied class certification. The plaintiffs have yet to appeal. If an appeal is forthcoming we will assist in preparation of appellate briefs.

Practice Area: Construction, Insurance Services

Key Issues: Construction Defects

Venue: Washoe County, Nevada

Client Type: Defendant Insurer

Description: Acted as coverage counsel in a litigation involving construction defects at a 58 home subdivision in Reno, Nevada.

Result: The litigation settled in stages. Forty-five homes settled in September 2006, and the remaining thirteen homes settled between September 2006 and September 2008.

Practice Area: Business And Commercial Litigation, Professional Liability, Real Estate Agents and Brokers

Key Issues: Real Estate Litigation

Venue: Los Angeles County Superior Court

Client Type: Defendant Real Estate Broker

Description: Defended a real estate broker in an action for fraud and breach of fiduciary duty based on the action of an independent real estate agent associated with the broker. The plaintiffs were elderly middle eastern immigrants who had amassed over 50 parcels of real estate over several decades. The real estate agent allegedly befriended the plaintiffs and used undue influence to cause the plaintiffs to list and sell properties providing excessive commissions and extra payments to the real estate agent. The plaintiffs sold most of their properties receiving less than 50 % of the net proceeds in several transactions.

Result: The case settled for a confidential amount.

Practice Area: Copyright, Domain Name and Trademark Litigation, Intellectual Property, Unfair Competition

Key Issues: Copyright Infringement; Unfair Competition

Venue: USDC: Central District of California

Client Type: Defendant Toy Importer

Description: Represented a toy importer in a case involving allegations of copyright infringement and unfair competition over an advertisement. Obtained the dismissal of right of publicity claims brought by individuals who appeared in the advertisement based upon the principle of copyright preemption of right of publicity claims.

Result: The case was resolved by settlement.

Practice Area: Coverage, Environmental, Insurance Services

Key Issues: Environmental Insurance Coverage; Judgment Debtor Collection Action; Insurance Code Section 11580.

Venue: Orange County Superior Court

Client Type: Defendant Insurance Carrier

Description: Our client, an insurance company, insured a metal plating facility for several years. The insured was sued by its neighbors for contribution as a prp for groundwater contamination at a Superfund site. The insurer settled with the insured and obtained a policy release. The third party neighboring property owner proceeded to trial against the insured and obtained a large judgment. The insurer failed to satisfy the judgment, having disbursed the settlement proceeds from our client's settlement. The third party judgment creditor brought suit under Ins. Code section 11580 against the insurer.

Result: Negotiated a stay and tolling agreement pending the insured's litigation with a non-settling co carrier. The third party judgment creditor may bring suit in the future if the judgment remains unsatisfied.

Practice Area: Insurance Agents and Brokers, Insurance Services, Professional Liability

Key Issues: Insurance Agents Errors and Omissions

Venue: Los Angeles County Superior Court

Client Type: Defendant Insurance Agent

Description: The plaintiffs, individual doctors and members of a medical group, brought suit against their insurance carrier and their insurance broker alleging that the broker failed to timely procure medical malpractice coverage causing the medical group to shut down causing the medical group to enter into a merger on unfavorable terms in order to continue in practice and meet the requirements of HMO contracts.

Result: We settled the litigation for a confidential amount.

Practice Area: Construction, Insurance Services

Key Issues: Property Damage; Fire Loss; Construction Defect

Venue: Los Angeles County Superior Court

Client Type: Defendant Insurance Carrier

Description: Represented a first party insurer in a dispute involving the adjustment of a fire loss at a high end Beverly Hills restaurant. The insured alleged that the carrier recommended a contractor who improperly performed the construction, resulting a delayed reopening of the restaurant, and resulting loss of return patrons. The insured also contended the insurer failed to pay the advertising expense necessary to the reopen. The insurer contended that the payments were timely, the contractor was an independent contractor of the insured and that the construction delays were due to the City and the permit process.

Result: The case settled for a confidential amount.

Practice Area: Construction, Coverage, Professional Liability

Key Issues: Architects; Construction; Design

Venue: Los Angeles Superior Court

Client Type: Defendant Residential Home Architect/Designer

Description: Defended a home architect/designer in an action for construction defects at a multi million dollar single family residence. We represented the architect that designed the residence. Issues included the vicarious liability of the architect for the structural engineering and the errors of the framing contractor and general contractor in failing to build to the approved plans and specs. The architect was alleged to be responsible for the failure of others including city inspectors to note the failure to construct to the approved design drawings.

Result: The case settled for a confidential amount, with the insurer paying the settlement, waiving the deductible and paying additional amounts to settle the insurance coverage action prosecuted by different counsel.

Practice Area: Directors & Officers, Employment

Key Issues: Employment, Public Policy, Director Decisions

Client Type: Defendant Corporation

Description: Currently defending a corporation in a suit in which the plaintiff alleges a cause of action based on alleged wrongful termination in violation of public policy. The plaintiff seeks damages for alleged unfair business practices by officers and directors of the corporate employer.

Practice Area: Bad Faith, Directors & Officers, Insurance Services

Key Issues: Duty to Defend; Bad Faith; Director & Officer

Venue: U.S. District Court, Central District, Los Angeles

Client Type: Defendant Insurer

Description: Defended a former officer of corporate insured under a D&O policy. The insurer originally defended then withdrew coverage during the litigation. The officer sued the carrier for defense, indemnity, a settlement and bad faith.

Result: Successfully settled for a confidential amount during trial.

Practice Area: Construction, Director/Officer Liability (including Non-Profits), Real Estate

Key Issues: Real Estate, Breach of Fiduciary Duty

Client Type: Defendant Real Estate Manager

Description: Currently defending a real estate manager in a case in which the parties entered into an operating agreement for a real estate project that is only partially developed. The bank has foreclosed on the property. The plaintiff alleges that the mismanagement by the defendant LLC managers caused the loss of the property.

Practice Area: Director/Officer Liability (including Non-Profits), Employment

Key Issues: Employment; Wrongful Termination

Venue: Los Angeles County Superior Court

Client Type: Defendant Telecommunications Provider

Description: Currently defending a telecommunications provider in an action for wrongful termination by an employee shareholder. The terminated employee brings additional claims against the officers and directors based on the decision and the procedure that was used to terminate.

Practice Area: Bad Faith, Insurance Services

Key Issues: Insurance, Cancellation & Premiums; Underwriting: Insurance Agents

Venue: Ventura County Superior Court

Client Type: Defendant Insurer

Description: Defended an insurer in an action in which the insured brought suit for a premium refund and bad faith based on the carrier's prior suit for a premium refund. The insurer contended that no premium was due, the policy had been properly cancelled and the insured had in fact failed to make premium payments leading to its cancellation.

Result: The insured dismissed suit for a waiver of costs.

Practice Area: Construction, Real Estate

Key Issues: Construction Defect

Venue: No Suit Filed, Claim Made in LA County

Client Type: Plaintiff Tenant

Description: Advised a tenant in a dispute with a landlord regarding commercial space. The landlord contracted to construct the tenant's improvements for a first class dance studio. The construction was late and performed in a substandard manner, impairing the tenant's ability to use the premises.

Result: The tenant is continuing to negotiate with the landlord. The tenant retained a real estate lawyer to take over the negotiation. Our role to evaluate the construction defect was completed.

Publications

- ❖ Author, Are Prevailing Party's Attorneys' Fees Covered in the Absence of Supplementary Payments Provision?, *Mealey's Emerging Insurance Disputes*, April 7th, 2011
- ❖ Author, The Subprime Meltdown, *Claims Magazine*, 11/19/08

News

- ❖ Ropers, Majeski, Kohn, Bentley, PC Named One of California's Top Ranked Law Firms by LexisNexis® Martindale-Hubbell®, *Martindale-Hubbell®*, August, 2015
- ❖ Game Changer - How Design Professionals and Contractors Can Limit Risk and Liability, *Smart Business*, 03/01/2013
- ❖ Partner Steven Erigero Quoted in "NFL Banks on Friendlier LA Climate", *The Daily Journal*, August 22, 2012
- ❖ Six Ropers Majeski Kohn & Bentley Partners Selected as 2010 Southern California Super Lawyers, *Law @ Politics*, 3/17/2010