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

Mr. Erigero 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 bodily injury and property damage, including earthquake damage, and water damage claims. He provides consultation on several insurance issues related to insurance agency issues, construction losses, director and officer, and other "claims made" policies and personal and advertising injury coverages.

He has devoted a significant portion of time to environmental insurance coverage litigation. He has developed an expertise in the nature of various contaminants and waste disposal practices, insurance claims and underwriting issues. He has represented clients in cleanup of refinery, gasoline station and waste disposal sites.

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
- 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)

Representative Experience

Practice Area: Bad Faith

Key Issues: Defamation, Crime policy, insurance bad faith

Venue: Los Angeles Superior Court

Client Type: Insurance Carrier

This was 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. The carrier paid the loss to the insured, but 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.

Result:

Case settled for a confidential amount.

Practice Area: Bad Faith, Insurance Services

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

Venue: Los Angeles Superior Court

Party injured in a salon as a result of pedicure, obtained judgment, and assignment of defendant's right to obtain insurance benefits. Plaintiff sued as judgment creditor and as assignee of insured.

Result:

Case settled for a confidential amount, after discovery showed medical specials and wage loss did not support total amount of judgment and after our analysis of coverage issues indicated insurer ran a risk of not prevailing

on the showing the policy did not apply to the loss.

Practice Area: Bad Faith, Insurance Services

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

Venue: Ventura County Superior Court

Client Type: Defendant Insurer

Insured brought suit for premium refund, and bad faith based on carrier's prior suit for premium refund. Insurer contended that no premium was due, policy had been properly cancelled, and insured had in fact failed to make premium payments leading to cancellation.

Result:

Insured dismissed suit for a waiver of costs.

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

Our client, 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. Insurer settled with insured and obtained a policy release. Third party neighboring property owner proceeded to trial against insured and obtained a large judgment. The insurer failed to satisfy the judgment, having disbursed the settlement proceeds from our insurer clients settlement. Third party judgment creditor brings suit under Ins. Code section 11580 against insurer.

Result:

We 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: Construction, Insurance Services

Key Issues: Property Damage; Fire Loss; Construction Defect

Venue: Los Angeles County Superior Court

Client Type: Defendant Insurance Carrier

We 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 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:

Case settled for a confidential amount.

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

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

Result:

Case settled for a confidential amount.

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

The plaintiffs, individual doctors and members of a medical group, brought suit against their insurance carrier and their insurance broker alleging the broker failed to timely procure medical malpractice coverage causing the medical group to shut down, with resulting loss of revenue, 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: 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

Represented a toy importer in a case involving allegation 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: Construction, Insurance Services

Key Issues: Property Damage

Venue: US Court of Appeals for the Fourth Circuit

Client Type: Defendant Window Manufacturer

Action for property damage in multi home subdivision arising out of alleged product defect in manufactured window assembly. 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. 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

Litigation involving construction defects at a 58 home subdivision in Reno Nevada.

Result:

The litigation settled in stages, 45 homes settled in September 2006, and the remaining 13 homes settled between September 06 and September 08.

Practice Area: Construction, Real Estate

Key Issues: Construction Defect

Venue: No suit filed, claim made in LA County

Client Type: Plaintiff; Tenant

This was a dispute between a tenant of commercial space with a landlord. The landlord contracted to construct tenant 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:

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

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: Owner of apartment complex

Action by owners of 11 unit apartment building against neighbor for property damage as a result of loss a lateral support due to excavation by developer building a condominium complex on adjoining parcel.

Result:

Case settled after retention of experts with sufficient funds to repair client's property damage and pay for experts.

Practice Area: Construction, Coverage, Professional Liability

Key Issues: Architects; Construction; Design

Venue: Los Angeles Superior Court

Client Type: Defendant Residential Home Architect/ Designer

This is 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: Construction, Coverage, Insurance Services

Key Issues: Insurance Coverage; Landlord Tenant Claims

Venue: Sonoma County Superior Court

Client Type: Insurance Company

We were 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:

We evaluated the case, 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 plaintiff counsel of coverage issues which would impact the collection of any potential judgment.

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

Key Issues: Insurance; mold

Venue: USDC: Central District of California

Client Type: Insurer

This was 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. 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. 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:

Case settled for a confidential amount within the contractual limits, applying the mold exclusion.

Publications

- Author, Are Prevailing Party's Attorneys' Fees Covered in the Absence of Supplementary Payments Provision?, *Mealey's Emerging Insurance Disputes*, April 7th, 2011

Speaking Engagements

- Insurance & Casualty Litigation 2011 - 2012: The Year in Review, May 23, 2012
- Insurance & Casualty Litigation 2011 - 2012: The Year in Review, May 22, 2012

News

- Six Ropers Majeski Kohn & Bentley Partners Selected as 2010 Southern California Super Lawyers, *Law @ Politics*, 3/17/2010