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PRACTICE AREAS

- Bad Faith and Extra-Contractual Liability
- Breach of Contract
- Commercial Litigation
- Construction
- Engineering and Construction
- Insurance
- Products Liability
- Property Insurance

BAR AND COURT ADMISSIONS

- State Court: Texas
- Supreme Court Texas, 2004
- United States District Court Northern, Southern, Western and Eastern Districts of Texas
- United States District Court Western District of Oklahoma
- United States Court of Appeals Fifth Circuit

EDUCATION

- The University of Texas School of Law

Eric is a first-party property insurance litigator who has spent his career defending some of the world's largest insurers in all sizes of claims, from residential disputes to large commercial market matters. His experience spans a broad range of property risks, including hail, wind, hurricane, lightning, fire, freeze, flood and theft, under commercial property insurance, builder's risk, time element / business interruption and extra expense coverages. Eric achieves superior results by leveraging factual and legal defenses early in the case, while measuring risks appropriately. Strategy, planning and execution are the mainstays of Eric's practice.

Resolving disputes *reasonably* with public adjusters, contractors and policyholder attorneys is always preferable to litigation. Eric works diligently with carriers, experts and the insureds' representatives to explore the opportunity for pre-suit resolution.

Eric also has multiple seven-figure subrogation recoveries for his insurance carrier clients and their insureds. His loss recovery experience includes an oil well blowout in the Texas panhandle, a structural collapse in Eastern Europe, and prolonged damage to a luxury residential structure built on a central Texas cliff.

In addition to his litigation and pre-litigation practice, Eric has drafted multiple policy forms and endorsements that are being used in insurance products, including cosmetic damage endorsements, pathogen and communicable disease exclusions, and appraisal endorsements.

Eric is also experienced at navigating the complexities of trans-border disputes, including currency exchange issues, evidentiary competence, language complications, and cultural awareness. He speaks and writes Spanish fluently and has represented one of the largest companies in Latin America.

REPRESENTATIVE MATTERS**Insurance Coverage – First Party**

Represented individual carriers and market programs in freeze and hurricane lawsuits involving eight-figure insurance claims.

- Texas A&M University

Won multiple partial summary judgments and evidentiary motions in state and federal courts that resulted in shrinking the carriers' exposures by an order of magnitude.

Won bench trial defense judgment on Houston policyholder's breach of contract and extra-contractual claims based on insurer's refusal to pay insurance appraisal award. Key issues were mistake in the appraisal award and causation of the damages encompassed by the award. The court found evidence to support mistake in the award, and that the insured plaintiff did not satisfy her burden of proving that Hurricane Harvey winds caused her claimed damage.

Aggressively defended commercial property and homeowners' insurers in hundreds of cases alleging hail, wind and water damage.

Negotiated favorable settlement for Builder's Risk insurer on claim by fracking sand manufacturer for property damage, delay and business interruption damages arising out of industrial equipment damaged while in route from Canada.

Won full summary judgment in Utah federal court for commercial property insurer on claims for alleged hail damage to condominium complex.

Defended commercial property insurer against improper payment claim by mortgagee arising out of initial emergency payment for Galveston apartment complex damaged by Hurricane Ike.

Subrogation

Represented a world-leading concrete producer and its property insurer in a subrogation action against a structural engineering firm arising out of structural collapse in Latvia.

Secured U.S. Fifth Circuit affirmation of money judgment in subrogation action against CGL carrier involving underlying settlement allocation and the applicability of defendant carrier's continuous-and-progressive-damage exclusion and subsidence exclusion.

Won full summary judgment for drilling contractor and its liability insurers in

subrogation action against oil-and-gas well operator for contractual indemnity.

Won jury verdict and money judgment for CGL carrier in subrogation action against subsequent insurer of mutual insured to recover settlement payment and defense costs arising out of underlying construction-defect lawsuit.

Insurance Coverage – Liability

Won full summary judgment for CGL carrier seeking contribution from co-insurer for defense costs paid on behalf of mutual insured.

Served as coverage counsel to commercial liability insurers in multiple cases involving construction defect and oil well blowouts, including the *Deepwater Horizon*.

PUBLISHED CASES

Maryland Cas. Co. v. Acceptance Indem. Ins. Co., 639 F.3d 701 (5th Cir. 2011)

DeGrate v. Executive Imprints, Inc., 261 S.W.3d 402 (Tex. App. – Tyler 2008, no pet.)

ARTICLES & PRESENTATIONS

“Texas Prompt Payment of Claims Act: When Are Insurance Code Chapter 542 Penalties Not Owed?” *The Zelle Lonestar Lowdown*, June 13, 2024, co-author

“Texas Prompt Payment of Claims Act: When Are Insurance Code Chapter 542 Penalties Not Owed?” June 11, 2024, co-author

"Holding an Insured to its Burden to Support its Claim: Texas' Concurrent Causation Doctrine," *Journal of Texas Insurance Law*, Winter 2024, Vol. 20, No. 2, March 4, 2024, co-author

"Striking Experts – When To and When Not To," Zelle 2024 *What the Hail?* Conference, February 8, 2024, presenter

“Application of Rule 702, Post-Amendment, to First-Party Property Case: Scrutinizing The Bases of Expert Opinions in *State Automobile Mutual Insurance Co. v. Freehold Management Inc. et al.*,” *The Zelle Lonestar*

Lowdown, January 9, 2024

"10th Circuit Affirms Insurer's Valuation Challenge and Summary Judgment,"
The Zelle Lonestar Lowdown, October 10, 2023

"Holding an Insured to its Burden to Support its Claim: Texas' Concurrent Causation Doctrine", 20th Annual Advanced Insurance Law Course, June 1-2, 2023, San Antonio, TX, presenter

"Clarifying Concurrent Causation in Texas," *The Zelle Lonestar Lowdown*, May 9, 2023, co-author

"Holding an Insured to its Burden to Support its Claim: Texas' Concurrent Causation Doctrine", May 2, 2023, co-author

"First-Party Expert Challenges," in-house training seminar, Dallas, TX, October 17, 2022, presenter

"The Art & Science of Appraisals," DRI Insurance Coverage and Claims Institute, Houston, TX, March 23, 2022, co-presenter

"Underwriting to Avoid Lawsuits and Mitigate Common Risks," National Association of Mutual Insurance Companies, webinar, September 30, 2020, presenter

"DRI Insurance Coverage and Claims Institute," Chicago, IL, April 3-5, 2019, Program Chair

"Weather Damage Claims - What the HAIL is all the Fuss About?" Dallas CPCU Society Chapter's All Industry Day, Dallas, TX, August 28, 2018, co-presenter

"Property Claims, Fraud & Litigation," IASA Texas Chapter Summer Conference, San Antonio, TX, July 26-27, 2018, presenter

"Foiling the Expert Battle in First-Party Property Cases," *Texas Law360*, May 11, 2018, co-author

"Sword and Shield: The Use of Expert Witnesses," DRI Insurance Coverage and Claims Institute, Chicago, IL, March 21-23, 2018, co-presenter

"Texas Property Claims Update: New Rules for Nature-Related Claims and Further Clarification on the Effect of Appraisal Payments," *DRI Covered Events*, November 2017, author

"Professional Liability Risks and Coverage Issues in the Construction Industry," in-house client seminar, Dallas, TX, October 16, 2015, presenter

"Contractor Settlements and The Voluntary Payments Condition," *DRI Covered Events*, December 2014, author

"A Survey of Professional Liability Risks and Coverage Issues in the Construction Industry," DRI Insurance Coverage and Claims Institute, Chicago, March 27, 2015

"Texas Liability Insurance Law Overview," in-house client seminar and webinar, New York, January 10, 2013

PROFESSIONAL AFFILIATIONS

Defense Research Institute (DRI) Insurance Law Committee - Membership Chair (2016-2017); Steering Committee (2014-2019); Chair, Construction Law Group (2014-2016)

Dallas Bar Association Tort & Insurance Practice Section - Chair (2016); Director (2009-2017)

NOTEWORTHY

Selected for inclusion in *The Best Lawyers in America*®, 2024, 2025.

Eric was named a Super Lawyer - Rising Star by *Law & Politics* published in *Texas Monthly* magazine every year from 2012-2016.