Michael Case

He | Him | His

Partner

New York

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Education

- University of Oregon School of Law, *Journal of Environmental Law and Litigation*, Articles Editor, JD
- University of Notre Dame, BA

Practices & Industries

- Torts & Products Liability Defense
- Insurance Coverage & Regulation
- Commercial Litigation & Complex Trials
- Transportation
- Construction & Surety

Admitted to Practice

- New York

Court Admissions

- US Court of Appeals for the First Circuit
- US District Court for the Eastern District of New York
- US District Court for the Northern District of New York
- US District Court for the Southern District of New York
- US District Court for the Western District of New York

Biography

With over 25 years of legal experience, Michael routinely handles high-profile, complex state and federal cases for insurance company and professional liability clients, including design professionals, accountants, attorneys, and corporate officers and directors. He also represents domestic and international insurers and reinsurers in developing and litigating coverage positions under commercial casualty, professional liability, directors' and officers' liability, products liability, general liability, and property, life, and title insurance policies.

Bar Associations

- American Bar Association, Business Law; Tort and Insurance Practice; and Natural Resources, Energy, and the Environment Sections
- New York State Bar Association

Representative Experience

- Successfully defended a multi-million breach-of-contract action by a data analytical-services vendor against a not-for-profit, including obtaining dismissal on the re-argument of the client’s principal from the case (S.Ct. N.Y. County, N.Y.).
- Defended a property-damage subrogation action against an industrial adhesive manufacturer arising out of claimed property damage from the incorporation of the client’s adhesive into finished work products (U.S. Dist. Ct., N.D.N.Y.).
- Achieved a highly favorable resolution of a commercial arbitration claim under JAMS streamlined arbitration rules on behalf of an international herbal products manufacturer

against an advertising agency for a breach of a media-services agreement between the parties.

- Obtained dismissal on summary judgment of a claim against an insurer seeking coverage for liabilities arising out of environmental contamination. Affirmed on appeal (*Nascimento v. Preferred Mut. Ins. Co.*, 513 F.3d 273 (1st Cir. 2008)).
- Established new law in Illinois regarding the insurability of amounts an insured paid in the resolution of criminal charges under a federal deferred-prosecution agreement. Affirmed on appeal (*BDO Seidman LLP v. Harris, et al.* 379 Ill. App. 3d 918, 885 N.E. 2d 470 (Ill. App. 2008)).
- Successfully obtained a decision from the Appellate Division, Second Department affirming the trial court's denial of a municipality's motion to dismiss a $4 million cost-recovery action against them for damages arising from the destruction of a client's records-storage warehouse.
- Secured discontinuance of insurer's subrogation claim, alleging breach of contract, breach of duties under the Carmack Amendment (49 U.S.C. Sec. 14706), and breach of bailment for de minimis settlement based on role as freight co-broker, as evidenced by subject insurance policies, indemnity provisions, and certificates of insurance.
- Obtained dismissal with prejudice of federal Defend Trade Secrets Act (DTSA) claims against our client, in a $200 million action pending in US District Court for the Southern District of New York. Plaintiff claimed defendants, including our clients, misappropriated trade secrets and violated alleged fiduciary duties in connection with the establishment of a stock index identifying opportunities to invest in publicly traded shares based upon the brand value of the issuing companies. The court held that the pleading did not state a federal claim under the DTSA, denied the plaintiff leave to re-plead, and dismissed all related state law claims.
- Successfully obtained dismissal on summary judgment of a claim for a $2 million "finder's fee" arising from the sale of a pharmacy business.

Prior Experience

- LeClairRyan, Partner
- Biedermann, Reif, Hoenig & Ruff, P.C., Partner
- Wilson, Elser, Moskowitz, Edelman & Dicker, LLP, Partner
- Wilson, Elser, Moskowitz, Edelman & Dicker, LLP, Associate

Selected Community Activities

- Kids in Crisis, Inc., Board of Directors and Risk Management Committee Member

Selected Honors

- Selected to *Super Lawyers* New York Metro: Insurance Coverage and Environmental Litigation, 2011-2015

Selected Speaking Engagements

- Lorman Education Services, “Current Issues in Stormwater Regulation”
- Resolute Management. Inc., “Claim Managers’ Update: Best Practices, Allocation, and Late Notice”
- “Environmental Clean-Up Liability Issues Arising in Corporate and Real Estate Transactions” CLE
- Westchester/ Fairfield County Corporate Counsel Association (WESFACCA), “Environmental Law for Corporate Counsel
- Underwriters Rating Board, “Insurance Law Updates”

Selected Media

- *Claims and Litigation Management Magazine*, “Fracking Know-How: Risks and Risk Allocation in High-Volume Hydraulic Fracturing for Shale Gas”
- American Bar Association Committee on Insurance Coverage Litigation, “Pollution Exclusion Litigation: The Tide of Lawsuits Is Not Out Yet”