

Jack Zahner

Principal | Seattle

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Overview

Jack concentrates his practice on insurance coverage from the policyholder's perspective.

Jack has successfully resolved significant insurance disputes including large first-party property losses, as well as third-party liabilities and lawsuits stemming from environmental contamination, consumer class actions, intellectual property and construction defect claims. Jack has also handled a wide array of commercial disputes through summary judgment, trial and appeal.

Areas of Focus

- [Litigation](#)
- [Construction](#)
- [Financial Services](#)
- [Insurance Coverage](#)
- [Securities Litigation & Enforcement](#)
- [Yachts, Ships & Submersibles](#)

Admissions

- Washington
- Oregon
- U.S. District Court, District of Guam
- U.S. District Court, Western District of Washington
- U.S. Court of Appeals for the 9th Circuit

Education

- J.D., University of Washington School of Law
- B.A., University of North Carolina

Honors & Recognition

- Access to Justice Institute
 - “Public Service” Award, 2006
 - “Leadership and Service” Award, 2004
- Washington State Bar Association Pro Bono Service Commendation, 2003, 2005

Professional Activities

- King County Bar Association
- King County Housing Justice Project, Volunteer Attorney, 2010
- Pro Bono Committee
 - Foster Garvey, 2019-present
 - Foster Pepper, 2002-2019
- Washington State Bar Association, Litigation Section, Member

Experience

First-Party Property Damage and Business Interruption Losses (Earthquake, Fire And Water Damage)

- Obtained \$14.6 million for regional developer from primary and excess property insurers in litigation over water intrusion and business interruption losses. California law governed the dispute.
- *Commonwealth Insurance Company v. Grays Harbor County*, 120 Wn.App. 232. Involving coverage for code upgrades and earthquake damage to county courthouse.
- Bedford LLC adv. Agricultural Insurance Company. Obtained \$3.5 million from property insurer for collapse (structural decay) and business interruption claims.
- *Ellis Court v. State Farm and Ellis Court v. Greenwich Insurance Company*. Obtained judgments and settlements totaling \$2.25 million from property insurers for collapse (structural decay).
- Daniels Cleaners adv. The Hartford. Obtained \$1.5 million for fire and business interruption claims for loss of dry cleaning plant.

Liability Insurance Coverage for Businesses

- Counsel to beverage manufacturer related to liability coverage for Lanham Act, trademark and trade dress claims.
- Counsel for financial institution in litigation against Directors & Officers insurer over coverage for underlying \$150 million consumer class action lawsuit in California. Secured D & O policy limits to fund

settlement of underlying class action.

- Coverage counsel for estates in environmental cleanup of former dry-cleaning supply site contaminated with perchloroethylene (PCE). Secured over \$6 million in primary and excess/umbrella coverage to fund cleanup. Site is being cleaned up through electrical resistance heating (ERH).
- Coverage counsel for former dry-cleaning operator in environmental cleanup. Site slated for clean up through electrical resistance heating.
- Acted as coverage counsel and defense counsel for the redeveloper of a complex contaminated site in Bellevue, Washington involving petroleum and other contamination. Secured satisfactory insurance-funded settlement from predecessor operator's pre-1986 CGL insurer.
- Represented a housing authority in a complex liability case related to the redevelopment of a project in Seattle and secured an insurance-funded settlement of all claims.
- *Pinnacle v. General Security Insurance Company*. Litigation against excess/umbrella liability insurer in actions in Missouri and Washington trial and appellate courts concerning coverage for wrongful death punitive damages judgment, choice of law, conflicts of law, and res judicata.
- Defense and coverage counsel for Mercer Island residents sued after a landslide. Resolved lawsuit against residents and prosecuted third-party claims against engineer, developer and contractor for leaking underground stormwater detention tank.
- Coverage and settlement issues for certain directors and officers.
- Coverage for intellectual property / trademark claims for restaurant.
- Coverage for copyright claims for engineering company.
- Counsel for financial institution in litigation against London Market Errors & Omissions insurer for coverage related to consumer class action.
- Coverage counsel for former dry cleaner for environmental cleanup of chlorinated solvents (PCE).
- Coverage counsel for assisted living facility defendant in Nevada wrongful death and punitive damages litigation.
- Coverage counsel for policyholder/defendant in wrongful death and closed head injury litigation arising out of boating accident.
- Coverage counsel for policyholder/defendant in wrongful death action.
- Coverage counsel for property owner who cleaned up abandoned, leaking underground storage tanks from predecessor's former gas station.

Liability Insurance Coverage for Construction Defects

- Coverage counsel for over a dozen developers and developer/general contractors for lawsuits brought by Condo Associations.
 - Bay Colony
 - Poulsbo Place
 - Cypress Way
 - Black Hawk

- Palisades Park
- Wild Horse
- Savannah Oaks
- Cedar Park
- Arbor Ridge
- Thea's Landing
- Barclay Court
- Magnolia / Bellagio
- Yehle Park
- Atwater Park
- Crofton
- The Falls

Commercial Litigation

- Trail Walk LLC v. CREI (Clearwater Real Estate Investments). On summary judgment filed 18 days after commencing the lawsuit, obtained declaratory judgment for Trail Walk terminating \$3.2 million second deed of trust in adversary action within a bankruptcy. The case involved the interpretation of a "Last-Out" Participation Agreement in the underlying loan.
- Sound Transit adv. Pine Street Stakeholders. Obtained expedited appellate review and reversal of Hearing Examiner decision interpreting Seattle Noise Ordinance. Reversal allowed Sound Transit to resume night-time construction of Pine Street substation.
- Obtained summary judgment for full reimbursement and prejudgment interest for infrastructure developer in action against later-in-time residential developer concerning sewer reimbursement contract.
- Represented property owner in action against adjoining property owner for landslide.
- Cleared \$970,000 lien from title for property owner in action against escrow agent.
- Obtained summary judgment on behalf of advertising agency in breach of contract litigation.
- Obtained summary judgment and fees on behalf of secured lender in litigation against mortgage brokerage for breach of contract due to broker's involvement in fraudulent pump and dump scheme.
- Represented advertising agency in contract dispute with client who preemptively terminated contract.
- Represented purchaser of undeveloped commercial real property in bench trial of rescission claim against seller. Trial judge awarded rescission with full refund of purchase price and prejudgment interest to purchaser.
- *Cabot v. Kobayashi*, 1996 WL 879469 (D. Guam) obtained summary judgment dismissal and Rule 11 sanctions against plaintiff real estate broker/attorney in commission dispute. Affirmed on appeal with award of double attorneys' fees and costs.

News & Insights

News

[Securing Insurance for Those Unable to Work](#)

[01.01.19](#)

Events

[2019 Insurance Coverage Legal Update: Safeguarding Your Operations With Insurance](#)

[11.12.19](#)

[2018 Insurance Coverage Legal Update: Safeguarding Your Operations With Insurance](#)

[06.07.18](#)

[2017 Real Estate/Land Use Briefing: Essential Industry Updates](#)

[11.09.17](#)

["Case Law and Regulatory Update: Washington," Insurance in the Construction Industry, The Seminar Group](#)

[10.06.17](#)

[2017 Insurance Coverage Legal Update](#)

[06.08.17](#)

Legal Alerts

[Maximizing Recovery From Insurance For Your COVID-19 Losses](#)

[03.18.20](#)

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