



DAVID I. RUBIN, SENIOR COUNSEL

Dave Rubin primarily practices in the areas of insurance coverage, appellate law, and commercial litigation. His experience in insurance coverage litigation encompasses a variety of claims including declaratory judgment/bad faith litigation, construction defects, commercial general liability, errors and omissions liability, priority of coverage, additional insured/indemnity disputes, policy rescission and reformation, and other issues involving the interpretation and enforcement of insurance policies. In addition, Dave has served as primary or *amicus curiae* counsel in over 70 appeals in Indiana and other jurisdictions on significant issues involving insurance coverage, automotive retail, tax, tort and business law.

Dave has also represented automobile dealers in litigation in state and federal courts, as well as mediations and arbitrations, involving consumers, manufacturers, finance companies, and vendors. He has presented programs at workshops for Indiana automobile dealers on issues including regulatory compliance, tax, insurance, vendor/supplier agreements, manufacturer/franchise relations, and corporate management.

Dave is a past Chair of the Indiana State Bar Association's Taxation Section, and has represented individual and corporate taxpayers in administrative proceedings before the Internal Revenue Service and the Indiana Department of Revenue, and has appeared on behalf of clients in tax litigation before the Indiana Tax Court, the United States Tax Court, and the United States Court of Appeals for the Seventh Circuit.

Dave also represents closely-held businesses and advises business owners on issues of corporate formation and entity selection, corporate record keeping and filing requirements, and general business issues including negotiation and preparation of vendor/contractor agreements.

CONTACT INFORMATION

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EDUCATION

Indiana University School of Law, Minor in Business, 2000 J.D.

Honors: Cum Laude

Indiana University, 1997 B.S.

Honors: High Distinction

BAR ADMISSIONS

Indiana, 2000

U.S. Tax Court, 2001

U.S. District Court Northern District of Indiana, 2000

U.S. District Court Southern District of Indiana, 2000

U.S. Court of Appeals 7th Circuit, 2006



PRACTICE AREAS

Litigation

Tax Law

Appellate Practice

Insurance Coverage

Representative Published Cases/Notable Cases

- *RCM Phoenix Partners, LLC v. 2007 East Meadows, LP*, 118 N.E.3d 756 (Ind. Ct. App. 2019) (affirming trial court's judgment after bench trial that properly filed *lis pendens* notices did not constitute slander of title, and reaffirming that properly filed *lis pendens* notices are absolutely privileged under Indiana law)
- *M Jewell, LLC v. Bainbridge*, 113 N.E.3d 685 (Ind. Ct. App. 2018) (affirming trial court's summary judgment order holding that tax sale purchaser was not a third-party beneficiary to agreements between county and entity which conducted tax sale)
- *State v. Norfolk Southern Ry. Co.*, 107 N.E.3d 468 (Ind. 2018) (*amici curiae* representation of two former Chairmen of the Federal Surface Transportation Board in successful transfer petition to the Indiana Supreme Court with published opinion holding that, as a matter of first impression, Indiana's blocked-crossing statute was preempted by the Federal Interstate Commerce Commission Termination Act)
- *SCI Propane, LLC v. Frederick*, 39 N.E.3d 675 (Ind. 2015) (*amicus curiae* representation of the Property Casualty Insurers Association in successful transfer petition to the Indiana Supreme Court with published opinion holding that, as a matter of first impression, attorneys' fees were not recoverable damages under Indiana's General Wrongful Death Statute if the decedent was survived by a spouse and/or dependents)
- *Minnesota Lawyers Mut. Ins. Co. v. Conour*, 2014 WL 5089290 (S.D. Ind. Oct. 8, 2014) (granting summary judgment for insurer and rescinding professional liability policies due to material misrepresentations and omissions in policy applications by lawyer and his law firm as to multi-year embezzlement scheme)
- *Thomson Inc. v. Ins. Co. of N. Am.*, 11 N.E.3d 982 (Ind. Ct. App. 2014), *trans. denied* (recognizing pro rata allocation method, rather than "all sums" allocation method, for long tail claims in former factory workers' bodily injury/wrongful death class action against company in Taiwan)
- *Thomson Inc. v. Cont'l Cas. Co.*, 976 N.E.2d 763 (Ind. Ct. App. 2012), *trans. denied* (affirming trial court's summary judgment order giving deference to California court's judicial determination of no coverage for contaminated sites in California and the United Kingdom on grounds of comity)
- *Cont'l Ins. Co. v. Wheelabrator Techs., Inc.*, 960 N.E.2d 157 (Ind. Ct. App. 2011), *trans. denied* (reversing trial court's summary judgment order and holding that purported assignment agreement did not transfer insurance rights)
- *DBL Axel, LLC v. LaSalle Bank Nat'l Ass'n*, 946 N.E.2d 1173 (Ind. Ct. App. 2011), *rev'g* 936 N.E.2d 326 (Ind. Ct. App. 2010) (granting rehearing as replacement appellate counsel and reversing trial court's order requiring immediate turnover of approximately \$1,400,000 in commercial real estate dispute)
- *Quanta Indem. Co. v. Davis Homes, LLC*, 606 F. Supp. 2d 941 (S.D. Ind. 2009) (entering summary judgment in case of first impression that "deemer" clause in commercial general



liability policy trumped multiple trigger of coverage theory adopted by prior Indiana case law, finding no coverage owed by subsequent insurer for wrongful death/suicide claim where initial occurrence/injury and notice to prior insurer occurred during prior insurer's policy period)

- *The Winterton, LLC v. Winterton Investors, LLC*, 900 N.E.2d 754 (Ind. Ct. App. 2009), *trans. denied* (vacating \$774,000 damages verdict for plaintiff and entering summary judgment for defendant in breach of contract/specific performance action over sale of multi-tenant office park)
- *Travelers Cas. and Sur. Co. v. United States Filter Corp.*, 895 N.E.2d 1172 (Ind. 2008) (reversing trial court's summary judgment order and holding that consent-to-assignment provisions in commercial liability policies were valid and enforceable, and that policies were not transferred in corporate transactions where insurer consent was not given)
- *Liberty Mut. Ins. Co. v. Michigan Mut. Ins. Co.*, 891 N.E.2d 99 (Ind. Ct. App. 2008) (affirming summary judgment in favor of commercial tenant's insurer that no coverage was owed to landlord under additional insured endorsement in tenant's commercial general liability policy for employee's slip-and-fall claim)
- *Sharp v. Tom Wood East, Inc.*, 822 N.E.2d 173 (Ind. Ct. App. 2004) (affirming summary judgment that used vehicle was merchantable under Indiana's Uniform Commercial Code)
- *Amerisure, Inc. v. Wurster Constr. Co., Inc.*, 818 N.E.2d 998 (Ind. Ct. App. 2004), *trans. denied* (holding no coverage for construction defects claim under commercial general liability policy; written commendation in opinion for "outstanding quality" of appellate briefs)
- *AutoXchange.com, Inc. v. Dreyer & Reinbold, Inc.*, 816 N.E.2d 40 (Ind. Ct. App. 2004) (affirming summary judgment for auto dealer on claims of wrongful diversion and misappropriation of corporate funds, fraud, intentional and malicious interference with a business relationship, intentional infliction of emotional distress, and unfair business practices)
- *Dreyer & Reinbold, Inc. v. Leib*, 811 N.E.2d 858 (Ind. Ct. App. 2004) (finding that proper venue for consumer small claims action against auto dealer under Indiana Small Claims Rules was county where vehicle was delivered or where dealer was located, rather than consumer's county of residence)
- *Meridian Mut. Ins. Co. v. Purkey*, 769 N.E.2d 1179 (Ind. Ct. App. 2002) (holding no coverage for claim under commercial general liability policy arising from an explosion and fire with resulting damages to a city block in Cicero, Indiana; written commendation in opinion for "superb oral and written advocacy")

Professional Associations and Membership

- Indiana State Bar Association (Taxation Section – Council, 2000 – 2007; Secretary/Treasurer, 2007 – 2008; Vice Chair, 2008 – 2009; Chair Elect, 2009 -2010; Chair, 2010 – 2011; Immediate Past Chair, 2011 – 2013)
- Indianapolis Bar Association
- American Bar Association
- National Association of Dealer Counsel

Published Works and Presentations

- "Practical Tax Law You Really Need to Know," Panelist/Presenter, Indiana Continuing Legal Education Forum, December 2010



- The Reference Handbook on the Comprehensive General Liability Policy: Business Risks Exclusions, chapter co-author, American Bar Association Tort, Trial & Insurance Practice Section (TIPS) Insurance Coverage Litigation Committee (ICLC), 2010
- “Indiana Divorce Settlements: Practical Drafting & Tax Issues,” Panelist/Presenter, Indiana State Bar Association, August 2008
- “The Battle Before the Battle: Venue and Choice of Law Disputes in Insurance Coverage Litigation,” co-author, ABA TIPS, 15th Annual ICLC Midyear Program, Tucson, AZ, February 2007’
- Insurance coverage case analyses for the International Risk Management Institute, Inc.’s CGL Reporter (2007 – 2013, 2018 – present)

Honors and Awards

- Indiana Rising Star in Insurance Coverage, Indiana Super Lawyers, a Thompson Reuters publication, 2010-2014
- Indiana Law Journal, 1998-2000
- Merit Based Scholarships

Community Involvement

- Indian Lake Country Club (Board of Directors, 2006 – 2007; Club Parliamentarian, 2008 – present)