

Caroline W. Spangenberg

Retired Partner

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Services

Alternative Dispute Resolution

Complex Commercial Litigation

Litigation

Caroline Spangenberg has thirty years' experience representing policyholders in insurance coverage matters and related indemnity disputes. She has helped her clients recover hundreds of millions of dollars in insurance proceeds through negotiation, mediation and other forms of ADR, arbitration (including international arbitrations) and litigation throughout the United States and overseas. She has handled a broad range of insurance coverage matters, including hurricane and other casualty losses, professional liability claims, asbestos, silica and other "toxic tort" claims, single- and multiple-site environmental claims, intellectual property, privacy, and technology (including Internet) claims under a variety of policies, including "advertising injury" and internet-specific policies, so-called "construction defect" claims, including major course-of-construction and completed operations claims, mold claims, product liability claims, directors and officers liability claims, errors and omissions claims, property damage and business interruption losses, as well as claims arising under a variety of specialized or manuscripted policies. Ms. Spangenberg has also had extensive experience dealing with allocation, additional insured, "other insurance" and "priority of payments" issues and in crafting effective risk management/insurance programs in a variety of contexts.

In addition to her coverage work, Ms. Spangenberg has dealt with insurance and indemnification issues in the corporate transactions and contractual contexts. In many instances, Ms. Spangenberg, in addition to pursuing potential insurance, has also helped her clients in minimizing or mitigating the underlying losses or liabilities that give rise to the insurance claim and in achieving a resolution of the underlying dispute in a way that maximizes the potential for insurance or indemnification from a third party. Ms. Spangenberg has also assisted clients in establishing protocols for early identification and pursuit of potential insurance.

Ms. Spangenberg was recognized by *The Best Lawyers in America*® for Insurance Law in 2021 and the 13 years immediately preceding. She was also named a 2017 "Atlanta Lawyer of the Year" in the area of Insurance Law by *The Best Lawyers in America*®. Since 2011, Ms. Spangenberg has been recognized as a Georgia "Super Lawyer" in Insurance Coverage by *Super Lawyers* magazine. She is a founding member of the American College of Coverage Counsel (ACCC), www.americancollegecec.org, an organization of preeminent coverage and extra-contractual lawyers, representing the interests of both insurers and policyholders dedicated to promoting the creative, ethical and efficient adjudication of insurance coverage and extra-contractual disputes. Ms. Spangenberg has also been named a Top Attorney in Georgia by *Atlanta* magazine and a Top Lawyer by *Corporate Counsel* magazine. She has been selected a Top Rated Lawyer in “Commercial Litigation” by Martindale-Hubbell and American Lawyer Media in *The American Lawyer* & *Corporate Counsel* magazine. She has been recognized among the world’s leading insurance practitioners in *Who's Who Legal: Insurance &*

Reinsurance in 2017, 2018, 2019 and 2020. Ms. Spangenberg has been recognized repeatedly for Insurance and Reinsurance in *The International Who's Who of Business Lawyers*. She is AV® Preeminent™ rated by Martindale-Hubbell.*

*AV®, BV®, AV Preeminent® and BV Distinguished® are registered certification marks of Reed Elsevier Properties Inc., used under in accordance with the Martindale-Hubbell certification procedures, standards and policies.

Experience

The firm served as lead counsel for a building products manufacturer in an insurance coverage lawsuit against Federal Insurance Company, Home Indemnity Company and Twin City Fire, and related disputes by other insurers, arising from various building product claims (exterior insulation and finish systems or “EIFS”) against Bonsal American Inc. in several states across the country. We resolved all claims against (and counterclaims by) former defendant Twin City Fire Insurance Co. in a confidential settlement. *W.R. Bonsal Co., Inc. v. Twin City Fire Ins. Co., et al.,* Case No. 97-CV-475 (W.D.N.C. filed Sept. 2, 1997).

Served as amicus counsel to a natural gas distributor in successfully persuading the Georgia Court of Appeals to reverse a trial court’s decision that had barred coverage for a natural gas accident on the basis of a standard pollution exclusion. The Court of Appeals held, to the contrary, that natural gas was not a “pollutant;” the worker’s injuries did not “arise out of” the discharge of a pollutant where the pollutant was not the “but for” cause of the injuries; and it would violate public policy to sell a liability policy to a natural gas company that excluded coverage for natural gas accidents.

The firm serves as lead counsel for a large residential construction company in several so-called “construction defect” coverage cases arising out of class action litigation pending in California. We argued before the Georgia Supreme Court in a case in which the Court, answering certified questions from the United States Court of Appeals, reaffirmed the broad scope of products-completed operations hazard (PCOH) coverage in “construction defect” claims.

The firm served as lead counsel representing the former limited partners of a now-dissolved limited partnership that formerly owned and operated a chemical site, in lawsuits against four insurance companies to secure defense and indemnity of a series of toxic tort and CERCLA contribution claims that had been brought against the former limited partners. The Eleventh Circuit ruled favorably construing an anti-assignment clause in the insurance policies, which resulted in a settlement of the dispute. This was, and is, an issue of great importance across the country, given the prevalence of such anti-assignment clauses in insurance policies, and the decision is cited frequently by policyholders in that context.

Represented the policyholder in two related declaratory judgment actions filed by the carrier concerning its duty to indemnify for the costs of defense of a multimillion dollar case involving the California lottery under an errors and omissions professional liability policy.

Served as counsel in representing a leading U.S. media conglomerate with respect to insurance coverage issues arising out of the sale of its television channel and website businesses to a consortium of media and entertainment companies, as well as a related program for divestiture of the company's other media businesses.

The firm served as lead counsel in representing a major multinational corporation headquartered in Switzerland in two related international arbitration proceedings against a consortium of Swiss and German insurance companies for coverage in connection with several nationwide consumer class-actions and lawsuits brought by the client's competitors alleging false designation of origin, false advertising and unfair and deceptive trade practices. Our client sought coverage under the "advertising injury" provisions of worldwide excess/umbrella policies issued by the consortium. Both arbitrations were *ad hoc* proceedings before well-known international arbitrators. The first proceeding settled favorably before the hearings. In the second proceeding, hearings were conducted in Zurich, Switzerland, after which the Panel issued a substantial monetary award to our client.

The firm served as lead counsel on behalf of Raytheon Company in litigation brought by a plant owner to recover indemnity for millions of dollars paid to settle toxic tort claims brought by our client's employees, who had been injured when exposed to mercury during maintenance work at the plant. Applying Tennessee law comparative fault principles and interpreting the "to the extent" language of the indemnity clause at issue to bar indemnity for the partial fault of the plant owner, the Sixth Circuit affirmed the trial court's ruling granting summary judgment to our client rejecting the owner's contractual indemnity claims. Following remand, we settled the owner's claims for contribution to its costs in cleaning up the mercury spill. *Olin Corp. v. Yeargin, Inc.*, 146 F.3d 398 (6th Cir. 1998).

Represented the largest outsourcing company for the pharmaceutical industry, in connection with a claim against its carrier arising out of a suit by a large number of participants in a phase IV trial of a pharmaceutical drug, where two of the investigators had been convicted of fraud and scientific misconduct in connection with the clinical trials. Federal and Chubb brought a declaratory judgment action against our client regarding a D&O policy and a manuscripted healthcare policy in the Northern District of Georgia. We counterclaimed for breach of contract, declaratory relief, and bad faith. Related litigation was filed in the United States District Court for Middle District of North Carolina. The case eventually settled on a confidential basis.

Served as lead counsel representing the developer of a high profile, 54-acre project in a major title insurance claim arising out of an easement problem that had halted further construction. We also represented the company in negotiating the release of an easement by a major rail system, the purchase of a landlocked piece of property, a crossing agreement, a new easement, and other agreements with multiple owners of surrounding properties in connection with the consummation of the title insurance claim.

Represented a construction joint venture that served as the construction manager for a convention center, in a series of claims arising out of an all-risk builders risk policy issued as part of an owner-controlled insurance program.

Represented ABS Liquidating Trustee of Commercial Financial Services ("CFS"), at one time the fourth largest debt collection company in the United States, and successfully recovered under the banker's professional liability policy and the primary D&O policy from the insurance carrier for claims asserted against it in bankruptcy. CFS had securitized pools of bad debt, including unsecured credit card consumer debt, for which it then served as servicing and collection agent.

Represented the largest privately-owned apparel company in the United States, in an environmental coverage case arising out of former dry-cleaning operations at facilities in Georgia, Texas, and other locations. Our client brought an action in the United States District Court for the Northern District of Georgia, in which the Court issued a decision finding a duty to indemnify, rejecting the carrier's "voluntary payments" and "late notice" defense. The case was then tried on the issue of damages, and settled favorably during the pendency of the carrier's appeal to the Eleventh Circuit.

Education

Harvard University J.D. (1976) *magna cum laude, Board of Student Advisers, Co-Chair*

Wellesley College B.A. (1973) *Phi Beta Kappa, Wellesley Scholar, National Merit Scholar, Recipient of Wall Street Journal Award for Student Achievement*

Admissions

Georgia (1985)

Massachusetts (1977)

Court Admissions

Georgia Court of Appeals

Georgia Superior Court

Supreme Court of Georgia

Supreme Judicial Court for the Commonwealth of Massachusetts

U.S. Court of Appeals for the Eleventh Circuit

U.S. Court of Appeals for the Federal Circuit

U.S. Court of Appeals for the First Circuit

U.S. Court of Appeals for the Sixth Circuit

U.S. District Court for the District of Massachusetts

U.S. District Court for the Northern District of Georgia

Professional & Community Activities

American College of Coverage Counsel, Member

American Bar Association, Member of Tort and Insurance Practice Section and Litigation Section Insurance Coverage Subcommittee

Federal Bar Association, Member

Georgia Bar Association, Member

Massachusetts Bar Association, Member

International Risk Management Institute, Member

Risk and Insurance Management Society, Inc., Member

Insights

News Releases

Kilpatrick Townsend Attorneys Garner 36 Rankings on the 2022 International Who's Who of Business Lawyers

October 24, 2022

News

Kilpatrick Townsend Attorneys Garner 37 Rankings on the 2021 International Who's Who of Business Lawyers

October 29, 2021

News Releases

Kilpatrick Townsend Attorneys Achieve 41 Individual Rankings on the 2019–2020 International Who's Who of Business Lawyers

November 12, 2020

News Releases

Record-Breaking Recognition for Kilpatrick Townsend in The Best Lawyers in America© 2021

August 20, 2020

News Releases

Kilpatrick Townsend Attorneys Named 2020 Georgia Super Lawyers

March 6, 2020