



## Elaine M. Pohl

PARTNER

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### Practice Areas

Foodservice & Hospitality  
Law

Insurance Coverage Law

Liquor Licensing

### Education

- Indiana University School of Law, Bloomington, Indiana, *Cum Laude*, J.D., 1999
- Indiana Merit Scholar Award
- Federal Communications Law Journal, Managing Editor (1998-1999)
- Villanova University, Villanova, PA, *Magna Cum Laude*, B.A., 1996
- Villanova Scholar Academic Scholarship
- Phi Kappa Phi Honor Society

### Admissions

Michigan, 1999

U.S. District Court, Eastern District of Michigan, 1999

U.S. District Court, Western District of Michigan, 2002

Elaine M. Pohl is a member of Plunkett Cooney's Insurance Coverage Practice Group who maintains a national practice counseling insurers in complex property and casualty disputes, including litigated and non-litigated matters.

A member of the firm's Bloomfield Hills office, Ms. Pohl's insurance coverage experience extends to claims involving professional liability, construction defects, bodily injuries, product liability, environmental contamination, personal and advertising injury issues, first-party property and allegations of bad faith.

### Representative Client Work

- Served as lead attorney for major insurer in coverage litigation involving Michigan State University with respect to highly publicized Larry Nasser sexual abuse claims. The coverage litigation involved the applicability of professional liability insurance policies issued to MSU and was resolved favorably via settlement.
- Represented insurer to advise and litigate numerous first-party property claims arising from the catastrophic flood event that occurred in metro Detroit during the summer of 2021.
- Represented insurer with respect to dispute over attorney fees and defense costs allegedly owed to defend the insured podcaster Pat McAfee regarding the claims against him filed by football hall-of-famer Brett Favre.
- Obtained summary judgment for insurance company, later affirmed by the Sixth Circuit Court of Appeals, on a complex coverage issue involving whether there is "personal and advertising injury" coverage afforded for an underlying Lanham Act false designation of origin

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U.S. Court of Appeals, Sixth Circuit, 2008

U.S. District Court, Northern District of Indiana, 2013

U.S. District Court, Southern District of Indiana, 2020

U.S. District Court, Northern District of Ohio, 2022

case. The underlying claims involved farmers from the Kona region of Hawaii alleging that certain coffee manufacturers and retailers were passing off coffee made from beans not grown in the region as genuine Kona coffee.

- Obtained summary judgment for insurer in Michigan federal court where the underlying claims for false designation of origin did not allege disparagement and, thus, no coverage was afforded under Coverage B
- Defended leading insurance provider as Michigan counsel in numerous class action cases claiming that the policy limit requiring payment of "actual cash value" to policyholders must include certain fees and costs if vehicles deemed a total loss
- Obtained summary disposition for insurer in Michigan state court under a claims-made policy where the claim was neither made nor reported during the policy period
- Obtained summary judgment relating to underlying construction defect claims based on the applicable policy's business risk exclusions
- Represented insurer in bad faith failure to settle suit involving an underlying personal injury case resulting from a trucking accident
- Obtained dismissal of a suit in favor of crop insurer client because the insured failed to timely seek judicial review of an arbitration award
- Represented professional liability insurer in an insurance coverage dispute with its medical provider insureds for claims pending against them relating to the well-publicized national fungal meningitis outbreak
- Represented professional liability insurer in an insurance coverage dispute pertaining to multiple insureds involved with a physician and clinic that provided unnecessary chemotherapy and other cancer treatments to at least 550 patients
- Obtained summary judgment for an insurer against a claim that the plaintiff was an additional insured pursuant to a certificate of insurance
- Obtained summary judgment for a professional liability insurer, which was later affirmed on appeal, on a claim for claims-made coverage for a legal malpractice claim where the insured knew of

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facts and circumstances that should have alerted her that such a claim could be asserted, but failed to notify the insurer during the policy period

- Obtained summary judgment in response to a claim for additional insured coverage for underlying bodily injury claims resulting from a construction-related workplace accident
- Obtained summary disposition, later affirmed on appeal, for workers' compensation carrier relating to insurance coverage for several hundred underlying workers' compensation claims, confirming that the claims were self-insured by the employer, and not insured by the carrier
- Represented an insurance company in a coverage dispute with an Ohio tire manufacturer involving thousands of underlying tire defect claims
- Represented an insurance company in a coverage dispute with a purported additional insured regarding an underlying product liability claim involving alleged damages in excess of \$50 million
- Represented an insurance carrier in a coverage dispute with an international construction company that sought insurance coverage for 11 defectively constructed coal-fired electric power plants located across the Midwest
- Represented an insurance company in a coverage dispute with its insured involving underlying class action claims for violation of the Telephone Consumer Protections Act (TCPA)
- Represented multiple insurance carriers and obtained a dismissal for her clients related to class action claims for a coverage dispute involving federally-regulated revenue protection coverage for dry bean crops
- Represented an insurance company client during settlement negotiations for multiple underlying actions involving claims of defective automatic transmission fluid against the insured distributor
- Obtained summary judgment on behalf of insurance carrier for rescission of insurance policy due to the insureds' misrepresentations
- Obtained summary judgment on behalf of insurance carrier for claim involving allegations of disparagement
- Defended insurance carrier in litigation and settlement negotiations involving hundreds of underlying environmental contamination claims

### Professional Affiliations

- DRI (Insurance Law Committee; Insurance Coverage and Practice Symposium, Program Chair, 2023, Vice Chair, 2022; Complex Coverage Forum, Program Vice Chair, 2021; Publications Subcommittee, Vice Chair, 2019-present; Compendia Chair, 2017-2019; *Covered Events*, former editor)
- Michigan Licensed Beverage Association

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- State Bar of Michigan (Insurance and Indemnity Law Section, Immediate Past Chair, 2014-2016; Chair, 2012-2014; Chair Elect, 2010-2012; Secretary, 2009-2010; Treasurer, 2007-2009)

## **Publications and Seminars**

- "Claims Against Multiple Insureds: When Being Right Might be Wrong," Co-presenter, DRI's Insurance Coverage and Claims Institute, Loews Chicago Hotel, March 13, 2025
- "Impact of Social Movements on the Insurance Industry," Co-author, DRI's For The Defense, May 2022
- "The Impact of Social Movements on the Insurance Industry," Presenter, DRI's Insurance Coverage and Practice Symposium, New York, Dec. 9, 2021
- DRI's Complex Coverage Forum, Vice Chair, Columbus, Ohio, Nov. 11, 2021
- "When are Duties Owed to Parties Other Than the Named Insured," Co-presenter, IF P&C's International liability Competence Group, Oct. 21, 2021
- "How to Successfully Mediate Coverage and Liability Matters Together Webinar," Panelist, State Bar of Michigan's Insurance & Indemnity Law Section, July 28, 2021
- "Introduction to Insurance Law," Co-presenter, DRI Webinar, March 2021
- "The Duty to Defend: Trends and Diversions," Co-presenter, DRI Insurance Coverage and Claims Institute 2017, Chicago, April 2017
- DRI's Duty to Defend Compendium, Co-editor-in-chief, 2016
- "Navigating Thorny Issues with Consent Judgments and Settlement of Coverage Claims," Lecturer, DRI Webinar, July 2016
- New Appleman on Insurance, Chapter 158, Declaratory Judgment Actions, Co-author, 2016
- Implied Disparagement, DRI Coverage B: Personal and Advertising Injury Compendium, Chapter 6, Co-Author, May 2014
- "Ethics, Privileges & Confidentiality for Coverage Counsel," Sole Presenter, DRI Insurance Coverage and Practice Symposium, New York City, December 2013
- "Insurance Coverage Conflicts and the Role of Independent Counsel," Program Moderator, State Bar of Michigan's Annual Meeting - Insurance and Indemnity Law Section, Thursday, Sept. 20, 2012
- "Is There Bad Faith in Michigan?," Program Moderator, State Bar of Michigan's Annual Meeting - Insurance and Indemnity Law Section, Thursday, Sept. 15, 2011
- "Whose Choice Is It Anyway? The Right to Select Independent Defense Counsel," Author, *Michigan Lawyers Weekly*, July 18, 2011
- "Truth or Consequences: Are Consequential Damages Covered by a Liability Insurance Policy under Michigan Law?," Author, *The Journal of Insurance and Indemnity Law*, Volume 3 Number 2, April

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2010

### **Community Involvement**

- Villanova University Alumni Association, Michigan Chapter (Past President)

### **Honors & Recognitions**

- Best Lawyers in America® for Insurance Law / Insurance Litigation, 2024 - 2026
- Women in the Law Honoree, Michigan Lawyers Weekly, 2018
- Michigan Super Lawyer Rising Star in Insurance Coverage; Michigan Super Lawyers, 2008, 2011 - 2014