





## Richard A. Simpson

Partner



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Rick is a trial lawyer and appellate advocate. As an Assistant U.S. Attorney for the Southern District of New York, Rick learned to love nothing so much as going to trial, unless it is crafting briefs and presenting oral argument in an important appeal. Assistants in that office were fortunate to be able to do both.

Rick represents lawyers and other professionals in malpractice claims, defends insurers in coverage and “bad faith” litigation, and represents clients in commercial litigation. He also represents lawyers in disciplinary proceedings, provides legal ethics advice to law firms, and has served as an expert witness on legal ethics and insurance coverage.

Rick recently completed a three-year term as Chair of the American Bar Association Standing Committee on Lawyers Professional Liability and now serves as a Special Advisor to the Committee. During his tenure as Chair of the Standing Committee, Rick also served as a member of the Coordinating Council of the ABA Center for Professional Responsibility. Previously, Rick served a three-year term as a member of the Standing Committee. He speaks regularly on professional liability and insurance coverage topics.

Rick has acted as lead counsel for trials in the District of Columbia, Florida, Maryland, New York, Texas, and Virginia, as well as for arbitration hearings. On the appellate side, Rick has presented oral argument in the Supreme Court of the United States; 10 of the federal courts of appeals; the Supreme Courts of Connecticut, Delaware, Maryland, North Carolina, and Ohio; and state intermediate appellate courts in California, Florida, Maryland, New York, and Texas. His strong record of success includes winning his case in the United States Supreme Court and all five state Supreme Court cases.

## Practice Areas



Insurance  
Issues and Appeals  
Litigation  
White Collar Defense & Government  
Investigations

## Credentials



### Education

J.D., with high honors (graduating first in class), University of North Carolina School of Law; Morehead Fellow; Order of the Coif

B.A., *magna cum laude*, Wesleyan University

### Clerkships

Law Clerk for the Honorable John D. Butzner, Jr., U.S. Court of Appeals for the Fourth Circuit

### Bar and Court Memberships

District of Columbia Bar  
Illinois Bar  
Maryland Bar  
North Carolina Bar  
Virginia Bar  
Supreme Court of the United States  
U.S. Courts of Appeals for the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, and District of Columbia Circuits  
U.S. District Courts for the District of Colorado, District of Columbia, District of Maryland, Eastern District of Michigan, Eastern District of North Carolina, Eastern District of Virginia, Eastern District of Wisconsin, Middle District of North

Beginning with the Marc Rich cases while he was an AUSA (for those who can remember that far back), Rick has handled many high-profile representations, including dealing with the press as appropriate. Those matters include conducting an internal investigation for a U.S. Senator and representing the Senator in connection with a grand jury investigation, representing high-level White House officials in connection with criminal and congressional investigations arising from the Whitewater and Monica Lewinsky investigations, and representing Prof. Alan Dershowitz in connection with a defamation case in Florida.

Carolina, Northern District of Florida, Northern District of Illinois, Northern District of Texas, Southern District of Indiana, Western District of Michigan, Western District of North Carolina, Western District of Virginia, and Western District of Wisconsin

Rick is an Adjunct Professor at the University of North Carolina School of Law, where he is the co-director of the Supreme Court Program, which operates as a clinic in which students assist in preparing submissions to the United States Supreme Court. From 2003 to 2017, Rick was an Adjunct Instructor in Trial Advocacy at the University of Virginia School of Law.

## Representative Matters

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- Obtained grant of writ of certiorari by the United States Supreme Court, continued as counsel of record at the merits stage, presented oral argument, and obtained a favorable decision in a case raising important issues under the Double Jeopardy Clause. *McElrath v. Georgia*, 601 U.S. —, 144 S.Ct. 651 (U.S. 2024). Rick's oral argument in the Supreme Court can be heard here.
- Obtained a favorable decision in an appeal and cross-appeal involving the extent of coverage available under an accountant's professional liability policy for two lawsuits brought by two lenders against the insured accounting firm arising from three separate audits. In an extensive published opinion, the Tenth adopted the insurer-side view that the applicable "interrelated claims" policy language sweeps broadly to encompass a broad range of logical and causal connections and that the proper focus is on whether claims have any meaningful commonalities, not on the differences between the claims as policyholders typically argue. *American Southwest Mortgage Corp., et al v. Continental Casualty Company*, 84 F.4th 910 (10th Cir. 2023).

- Obtained summary judgment in the trial court and an affirmance by the Seventh Circuit determining that a D&O policy did not provide coverage for \$20.8 million in settlements of shareholder lawsuits challenging the acquisition of the insured by another company because they constituted settlements of claims alleging that the price of the acquisition was inadequate and so fell within the “bump-up” carve out from the definition of covered “Loss.” *Komatsu Mining Corp. v. Columbia Casualty Co.*, 58 F.4th 305 (7th Cir. 2023), affirming *Joy Global Inc. v. Columbia Casualty Company*, 555 F. Supp. 3d 589 (E.D. Wis. 2021).
- Obtained a decision by the Maryland Supreme Court (on certified question) holding that a law firm representing Homeowners Associations in connection with negotiating and documenting repayment plans with homeowners with delinquent dues is not subject to the Maryland Consumer Loan Law. The decision resolves an important issue of first impression that affects all businesses and professionals extending credit in Maryland as “an ancillary function” of their operations. *Nagle & Zaller, P.C. v. Delegall*, 480 Md. 274 (2022). Read more here.
- Obtained summary judgment in the trial court and a decision by the Maryland Court of Special Appeals affirming the judgment, holding that a former client suing his attorneys for malpractice must prove that the attorneys proximately caused the alleged loss via the trial within the trial, even if the attorneys engaged in so-called bright line malpractice or allegedly guaranteed recovery of a sum certain. *Saunders v. Markey*, No. 24-C-19-003511 (Md. Ct. Spec. App. Nov. 3, 2021). Rick’s oral argument in the Court of Special Appeals can be heard here (October 4, 2021).
- As co-counsel with the ACLU of Maryland, represented on a pro bono basis incarcerated people sentenced to life imprisonment as juveniles, achieving in March 2021 a settlement that mandates substantial reforms to the parole process in Maryland. Read more here.
- Obtained a precedential Ninth Circuit decision vacating a remand order notwithstanding the statutory bar on appellate review on the ground that the district court’s sua sponte decision that it lacked jurisdiction was not “colorable.” *Academy of Country Music v. Cont’l Cas. Co.*, 991 F.3d 1059 (9th Cir. 2021).
- Following a five-day evidentiary hearing in November 2019, obtained an arbitration award determining that a major corporation was not entitled to any coverage under a directors’ and officers’ liability policy issued by Wiley’s client.
- Obtained a decision by the Connecticut Supreme Court (on certified question from the Second Circuit) that the statute of repose barred a claim against an insurance adjuster. The decision is an important precedent for professionals and other defendants regarding the continuing course of conduct and related wrongful act doctrines. *Essex Ins. Co. v. William Kramer & Assocs., LLC*, 205 A.3d 534 (Conn. 2019). Rick’s oral argument can be heard here (October 16, 2018).
- Represented insurer on appeal to the Delaware Supreme Court from a \$14 million judgment in a case involving whether a comprehensive general liability policy provided coverage for hundreds of asbestos claims, obtaining a decision reversing and directing that judgment be entered for the insurer. *Travelers Indemnity Co. v. CNH Industrial America, LLC*, 2018 WL 3434562 (Del. July 16, 2018). Rick’s oral argument can be viewed here (May 9, 2018).

- Acted as lead counsel for Professor Alan Dershowitz in a highly-publicized defamation case in state court in Florida, which was resolved in April 2016 with the parties issuing a Joint Statement in which the opposing parties withdrew the allegations against Professor Dershowitz.
- In a 2016 jury trial, obtained a verdict of “NO!” in response to the question whether the insurer had unreasonably delayed thereby waiving its right to rescind an accountant's professional liability policy. Before trial, obtained published opinions granting partial summary judgment for the insurer on several important issues of New York law regarding rescission. *Cont'l Cas. Co. v. Marshall Granger & Co.*, 921 F. Supp. 2d 111 (S.D.N.Y. 2013), 6 F. Supp. 3d 380 (S.D.N.Y. 2014). The Second Circuit affirmed the judgment for the insurer. *Cont'l Cas. Co. v. Marshall Granger & Co.*, No. 16-2384, 2017 WL 2416902 (2d Cir. June 5, 2017).
- As counsel retained for proceedings in the North Carolina Supreme Court in a case important to the accounting profession, obtained a grant of discretionary review and then reversal of an intermediate appellate court decision holding that an auditor may owe a fiduciary duty to the audit client as a matter of law. *CommScope Credit Union v. Butler & Burke, LLP*, 790 S.E.2d 657 (N.C. Sept. 23, 2016).
- Acted as trial counsel for a District of Columbia lawyer in a closely watched legal malpractice case brought by a Nobel Prize laureate, obtaining a defense jury verdict following a nine-day trial (2011).
- Retained as appellate counsel following a large jury verdict against a law firm in Ohio. On appeal, the Ohio Supreme Court reversed and directed entry of judgment for the law firm in an opinion that is now an important precedent regarding the proximate cause element of legal malpractice claims. *Environmental Network Corp. v. Goodman Weiss Miller, LLP*, 893 N.E.2d 173 (Ohio 2008). Rick's oral argument can be heard here (April 22, 2008).

## Professional Experience

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- Adjunct Professor, Supreme Court Program, University of North Carolina School of Law
- Adjunct Instructor in Trial Advocacy, University of Virginia School of Law
- Deputy Independent Counsel, Office of Independent Counsel Curtis Emery von Kann. Had day-to-day responsibility for a confidential investigation conducted under seal
- Associate Independent Counsel, Office of Independent Counsel James C. McKay. Assisted with the Aqaba pipeline aspect of the investigation of then Attorney General Edwin Meese, II
- Attorney-Adviser, U.S. Department of Justice, Office of Legal Counsel
- Assistant U.S. Attorney for the Southern District of New York. Handled a wide variety of civil and quasi-criminal matters, including several civil litigations arising from a jeopardy tax assessment against Clarendon LLP, f/k/a Marc Rich & Company

## Affiliations

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- American Bar Association (ABA)
  - Special Advisor, ABA Standing Committee on Lawyers' Professional Liability (2023-Present)
  - Chair, ABA Standing Committee on Lawyers' Professional Liability (2019-2022)
  - Member, ABA Standing Committee on Lawyers' Professional Liability (2015-2018)
- Fellow, American Bar Foundation
- American Civil Liberties Union of Maryland, Committee on Litigation and Legal Priorities (2011-2023)
- Association of Professional Responsibility Lawyers
- Permanent Member, Fourth Circuit Judicial Conference

## Recognitions

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- Received International Municipal Lawyers Association's Amicus Service Award for advocacy in the Supreme Court (2017-2022, 2024)
- Recognized by *The Legal 500 US* in Insurance Law (2014-2016, 2018) and Supreme Court and Appellate Law (2015, 2019, 2022-2023)
- Named one of DC's "Super Lawyers" for Appellate by *Super Lawyers* magazine (2013-2020, 2022) and Professional Liability: Defense (2023)
- Named one of Washington's "Best Lawyers" by *Washingtonian* magazine (2011)
- 2001 Term Volunteer Recognition Award, National Association of Attorneys General (for assisting state government officials in preparation for arguments before the Supreme Court of the United States)
- Rated "Highly Qualified" for appointment to the Fourth Circuit by the Virginia State Bar Judicial Selection Committee, February 2009 (one of four candidates receiving highest rating)