



## Mary E. Borja

Partner



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Mary represents clients in complex litigation and arbitration involving professional liability, transactional liability, general liability, cyber, and crime insurance coverage. She provides advice and counsel on a wide range of insurance issues, including representations and warranties, legal malpractice and other errors and omissions claims, director and officer liability, bankruptcy, construction defect, environmental liability, blockchain and other technology, and bad faith.

Mary is a certified Legal Lean Sigma Institute (LLSI) White Belt, and uses the LLSI process and project management approach to deliver increased value to clients.

### Representative Matters

- Represented insurer in five-day evidentiary hearing in February 2022, regarding coverage sought under a representations and warranties insurance policy issued by Wiley's client.
- Obtained summary judgment that insurer properly denied coverage under claim-first-made-and-reported policy where insured received demand letter and entered into a litigation standstill agreement before inception of policy period during which claim was reported. *CNEX Labs, Inc. v. Allied World Assurance Company (U.S.), Inc.*, No. 18cv334461 (Cal. Super. Ct., Santa Clara County July 17, 2019).
- Obtained dismissal of direct action complaint by former law firm clients seeking coverage under firm's lawyers professional liability policy on grounds that plaintiffs lacked judgment creditor status, failed to prove third party beneficiary status,

### Practice Areas

Insurance  
Litigation  
Digital Assets, Cryptocurrencies, and Blockchain

### Credentials

#### Education

J.D., *magna cum laude*, University of Miami Law School; Order of the Coif  
B.A., The Johns Hopkins University

#### Law Journals

Senior Articles Editor, *University of Miami Law Review*

#### Bar and Court Memberships

District of Columbia Bar  
U.S. Courts of Appeals for the Third, Fourth, Sixth, Ninth, Tenth, Eleventh, and District of Columbia Circuits  
U.S. District Court for the District of Columbia  
U.S. District Court for the District of Maryland

#### Certifications

Licensed Continuing Education Instructor, New York State Department of Financial Services and Florida Department of Financial Services

and breach of contract claim failed as a matter of law. *Kahlon, et al. v. CNA Financial Corp., et al.*, No. 16-cv-02239-LDW-AWS (E.D.N.Y. June 13, 2017).

- Obtained summary judgment for insurer that exclusions in life insurance agent's E&O policy barred coverage for a multi-million dollar claim and that the insured was obligated to reimburse all defense costs. *Columbia Casualty Co. v. Mostafa Abdou*, No. 15-cv-00080-LAP-KSC (Dec. 16, 2015, as amended Aug. 18, 2016).
- Prevailed on motion to dismiss and on appeal, obtaining rulings of no coverage under accountants professional liability policy on grounds that tax shelter exclusion bars coverage for claims that the insured implemented investment strategies constituting illegal tax avoidance schemes. *Financial Strategy Group, PLC v. Continental Casualty Co.*, 2014 WL 5449577 (W.D. Tenn. Sept. 23, 2014), *aff'd*, No. 14-6296 (6th Cir. Aug. 4, 2015).
- Obtained dismissal of claim under lawyers professional liability policy on grounds that the allegations against the insured, including allegations of an ongoing conspiracy, pertained solely to acts before the policy's retroactive date. *Wesco Insurance Co. v. Regas*, 2015 WL 500702 (N.D. Ill. Feb. 3, 2015).
- Obtained dismissal for insurer based on business enterprise exclusion in attorney professional liability policy. *Gomery v. Continental Cas. Co.*, 2014 WL 4209648 (W.D. Mich. Aug. 25, 2014).
- Obtained summary judgment for directors and officers liability insurer on grounds that claim was first made before the policy period and that the prior notice exclusion, definition of loss, late notice, and cooperation clause all barred coverage. *Christian J. Lessard v. Continental Cas. Co.*, 2014 WL 4162006 (E.D. Va. Aug. 19, 2014).
- Obtained summary judgment for employment practices liability insurer based on wage and hour claim exclusion, definition of loss, and late notice. *M Bar C Construction Inc. v. Continental Cas. Co., et al.*, No. 2012-37-00088258-CU-IC-CTL (Cal. Super. Ct., San Diego Cty. Jan. 3, 2014).
- Extensive experience in drafting insurance policy forms for third party liability, first party property, commercial crime, and other coverages.
- Particular experience in representing insurer interests in connection with "bad faith" claims and complaints to state insurance regulators.
- Significant experience defending lawyers facing legal practice actions, including in successful jury trial.

## Affiliations

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- American Bar Association (ABA), Section of Litigation, Insurance Coverage Litigation Committee
- Past Chair, Insurance Coverage Committee CLE Seminar
- Past Chair, Professional Liability Subcommittee
- Past Chair, Construction Subcommittee
- American College of Coverage Counsel

- Co-Chair, Cyber, Computer & Emerging Issues Committee
- Fellow
- Defense Research Institute (DRI)
- Professional Liability Underwriting Society (PLUS)
- Board of Trustees, Legal Aid Society of the District of Columbia (2019)

## Recognitions

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- AV Peer Review Rating, Martindale-Hubbell's highest ranking by peers for general ethical standards and legal ability
- Named one of DC's "Super Lawyers" for Insurance Coverage by *Super Lawyers* magazine (2020)