



**David P. Rossmiller**

Shareholder

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#### PRACTICE AREAS:

Insurance Coverage Analysis, Claims Advice, Insurance Litigation, Environmental Law, Commercial Litigation & Intellectual Property Litigation, Mediation Services

#### OVERVIEW

David Rossmiller is a Shareholder at Betts Patterson & Mines, P.S. where he has a multi-state practice and specializes in complex insurance coverage advice and litigation. David's insurance practice includes a broad range of issues including general commercial liability insurance, construction defect, auto and homeowners coverage, environmental property damage, first party coverage, professional liability coverage, directors and officers liability, business interruption insurance, coverage issues regarding clergy and other sex abuse cases, and many other types of coverage matters. David routinely counsels insurers on coverage issues and helps clients avoid coverage traps in the seven states in which he practices.

David's expertise has been widely recognized by his peers and the insurance industry due in part to his broad knowledge of insurance law and issues on a national level. He has written extensively for the Appleman on Insurance treatise and related publications, and is a past author of the [Insurance Coverage Law Blog](#), a popular and influential blog on insurance coverage matters and industry development. In addition, David has been quoted on insurance and other legal topics in numerous media stories including stories in The Wall Street Journal, The New York Times, The Los Angeles Times, USA Today, The New Orleans Times-Picayune, The Oregonian and many more.

Besides insurance coverage, David's practice includes litigation of trademark, copyright and patent infringement, unfair competition, trade secrets, and other intellectual property cases. David also has many years of experience in managing environmental contamination clean-up cases and in environmental advice and litigation under CERCLA and state environmental laws. He has extensive litigation experience in railroad law and employment law cases. David also represents numerous property and casualty insurers as a lobbyist against insurance bad faith bills in the Oregon Legislature.

Before becoming a lawyer, David was an award-winning investigative reporter in Arizona for the now-defunct afternoon daily newspaper The Phoenix Gazette, where he covered crime and city politics.

## REPRESENTATIVE CASES

- Represented primary insurer in complex Portland Harbor Superfund environmental coverage case involving multiple tiers of insurance and numerous insurers. Discovery in this case involved hundreds of thousands of documents, numerous depositions, motion practice regarding defense costs, indemnity and policy interpretation, and repeated multi-party mediations across the country. Successfully defended insurer's position.
- Represented excess carrier in multi-tier contribution lawsuit for historic industrial site in Portland Harbor with approximately \$600 million to \$800 million in policy limits at issue. Navigated lost policy issues and issues related to policy exhaustion while acting as spokesperson for all excess carriers involved in the litigation.
- Won bench trial in federal court on behalf of insurer in contribution action against other primary carrier, and later won summary judgment motion on most of the remaining issues that had not been resolved at trial. The trial established that other primary insurer had made a binding contract at a mediation to pay contribution, if it lost a summary judgment motion on the applicability of an Employer's Liability exclusion, pursuant to a unique additional insured endorsement. The court ruled that this contract and the other insurer's policy applied even though it turned out the other insurer had incorrectly read its policy and there was no applicable additional insured endorsement.
- Defended manufacturer of high-end porcelain ornaments and dinnerware against 41 claims of copyright infringement, trademark and trade dress violations, breach of contract and trade secret theft. Won summary judgment on all but a few claims and successfully defended manufacturer at jury trial on the claims that remained after summary judgment. Later settled remaining business issues between the parties with written contract.
- Successfully protected insurer in California case where duty to defend had mistakenly been accepted by alerting insurer to the mistaken defense and then negotiating with insured, claimant's counsel and other parties to resolve underlying lawsuit at mediation without need for insurer to withdraw from defense or file declaratory judgment action over interpretation of pollution exclusion.
- Represented insurer trade organizations as lobbyist and insurance expert before Oregon Legislature concerning bad faith insurance bills in two separate legislative sessions. Analyzed public policy in meetings with legislators, drafted written materials for lobbyist team, helped formulate and coordinate strategy, and testified at committee hearings.
- Successfully represented nationwide environmental consultant firm in administrative proceedings with Oregon Department of Environmental Quality regarding consultant's supposed violation of state environmental statutes. Through presentation of evidence, written arguments and in-person meetings with regulators, persuaded DEQ that statutes did not apply, resulting in removal of notice of violation from record and dismissing monetary penalty.
- Represented numerous landowners in Oregon and Washington in environmental contamination matters before Washington Department of Ecology and Oregon Department of Environmental Quality, including working with insurers and other liable parties to successfully remediate contamination and remove liability for client or obtain No Further Action letters.
- Won summary judgment motion for contribution and attorney fees on behalf of insurer against another insurer, enforcing blanket additional insured provision against argument that it was void because the policyholder general contractor's construction contract exceeded the scope of indemnification allowed by state statute.
- Author of numerous treatise chapters and scholarly articles for Appleman on Insurance publications, frequent speaker nationwide on insurance at conferences and webinars, and past author of the influential Insurance Coverage Blog, where the author's analysis of critical issues was cited in court opinions and which had up to 100,000 unique page views per month.
- Convinced multiple other insurers to join defense of insured after initial denials through written and oral communications and arguments, and through filing of declaratory relief action involving insurers and underlying parties, arranged a global settlement conference that brought about favorable settlement to insurers on monetary terms.

## EDUCATION

University of Michigan Law School - J.D., *cum laude*, 1998

Minot State University - B.A., *cum laude*, 1984

## ADMISSIONS

Oregon, 1998

U.S. District Court of Oregon, 2000

Washington, 2005

U.S. District Court of Washington, Western District, 2005

U.S. District Court of Washington, Eastern District, 2005

Idaho, 2010

U.S. District Court of Idaho, 2010

U.S. Ninth Circuit Court of Appeals, 2010

Utah, 2012

U.S. District Court of Utah, 2012

North Dakota, 2011

U.S. District Court of North Dakota, 2012

Montana, 2012

U.S. District Court of Montana, 2012

Wyoming, 2012

U.S. District Court of Wyoming, 2012

## PROFESSIONAL & CIVIC AFFILIATIONS

Idaho State Bar Association

Montana State Bar Association

Multnomah Bar Association

North Dakota Bar Association

Oregon State Bar Association

Utah State Bar Association

Washington State Bar Association

Wyoming State Bar Association

## PUBLICATIONS & PRESENTATIONS

Author, Appleman on Insurance 2d, Chapter 192, "*Hurricane Law*"

Author, Appleman on Insurance 2d, Library Edition, Chapter Three, "*The Insurer-Insured Relationship*"

Regular Contributor, Insurance Coverage Blog, [www.insurancecoverageblog.net](http://www.insurancecoverageblog.net)

Presenter, "*Emerging Issues Regarding Additional Insured Coverage*," Insurance in the Construction Industry (April 2011)

Presenter, Mississippi Bankers Association Annual Convention (May 2008)

Presenter, Mississippi State Insurance Day (April 2008)

Presenter, Mississippi-Alabama Sea Grant Legal Program (October 2009)

Presenter, Cyber Insurance – Oregon State Bar (September 2013)

Presenter, Problems with Additional Insured Endorsements (April 2012)

Author, New Appleman Insurance Law Practice Guide, Chapter 19, *“Applying Attorney-Client and Work-Product Privileges in Insurance Litigation”*

Author, New Appleman on Insurance Law Practice Guide, Chapter 20, *“Conducting Discovery in Insurance Litigation”*

Author, New Appleman on Insurance: Current Critical Issues in Insurance Law – *“Interpretation and Enforcement of Anti-Concurrent Policy in Hurricane Katrina Cases and Beyond”*

Author, New Appleman on Insurance: Current Critical Issues in Insurance Law – *“Katrina in the Fifth Dimension: Hurricane Katrina Cases in the Fifth Circuit Court of Appeals”*

Presenter, *“Wind v. Water”* Property Loss Research Bureau (March 2009 and March 2010)