James W. Holbrook, III
Partner

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PRACTICE AREAS

- Bad Faith and Extra-Contractual Liability
- Breach of Contract
- Builder's Risk
- Commercial Litigation
- Construction
- Insurance
- Property Insurance
- Reinsurance
- Subrogation

BAR AND COURT ADMISSIONS

- State Court: Texas, Washington State
- U.S. Court of Appeals: Fifth Circuit, Federal Circuit
- U.S. District Court: Northern, Southern, Eastern and Western Districts of Texas

EDUCATION

- University of Texas School of Law, J.D., with honors, 2001; Notes Editor, The Review of Litigation

Jimmy is a property insurance litigator who has successfully tried cases to jury verdicts and to the bench. Having handled a broad range of matters for some of the world's largest insurance companies in state and federal courts across the country, Jimmy has significant experience in litigating first-party property insurance disputes involving commercial property, builder's risk, inland marine, excess indemnity, and reinsurance.

Jimmy has worked as lead counsel on litigated matters arising from Gulf Coast hurricanes, wind, hail, and other weather-related catastrophes, including most recently Winter Storm Uri. And, as a self-admitted rules junkie and avid student of the law, Jimmy brings a knowledgeable and creative approach to solving his clients most pressing legal issues before and after suit.

REPRESENTATIVE MATTERS

Insurance coverage Disputes

Jimmy routinely represents commercial property insurers in their most complex coverage disputes and high-stakes bad faith litigation. His representative experience in the insurance arena includes:

Serving as lead trial counsel for commercial property insurer in multi-million-dollar suit arising out of Hurricane Harvey; obtained a pre-verdict dismissal of plaintiffs claims for alleged violations of Chapter 541 of the Texas insurance Code and take-nothing judgment in favor of insurer on plaintiffs breach of contract claims for alleged property damage, lost business income, extra expense, and professional fees; plaintiff sought more than $4.9 million in alleged damages and attorneys fees at trial, but was awarded less than $10.00.

Acting as lead counsel for commercial property insurer in several litigated actions involving insureds claims for business income losses allegedly resulting from COVID-19 pandemic; obtained dismissal of all claims with no out-of-pocket payments from client.

Successfully defending commercial property insurers, third-party administrators, and claims adjusters in several multi-million-dollar coverage and bad faith lawsuits arising out of Hurricanes Katrina, Ike, Harvey, Laura,

- University of Texas at Dallas, B.A., Government & Politics, magna cum laude, 1998

Delta, Zeta, and Ida.

Successfully defending commercial property insurers, third-party administrators, and claims adjusters in several multi-million-dollar coverage and bad faith lawsuits arising from wind, hail, and other weather-related catastrophes, including most recently Winter Storm Uri.

Representing reinsurer in multiple lawsuits involving claims for coverage under a self-funded intergovernmental risk pool comprised of school districts across the State of Texas.

Successfully prosecuting claim for breach insurance contract on behalf of insurance carrier, securing judgment in full amount of clients claim.

Industrial Catastrophes

Jimmy also represents commercial property insurers and their insured property owners in construction defect and products liability cases stemming from industrial catastrophes, including the following representative matters:

Representing property insurer and steel foundry in suit to recover more than $6 million in damage sustained in propane tank BLEVE.

Representing property insurer and petrochemical company in suit to recover more than $40 million in damages resulting from compressor failure and fire.

Representing property insurer and transit agency in suit to recover approximately $12 million in damage sustained from release of gas and ensuing fire at Compressed Natural Gas fueling station.

Representing property insurer in suit to recover approximately $2 million in damage sustained from fire caused by breach of utility providers natural gas service line to retail shopping center.

Successfully defending manufacturer of prefabricated fireplace systems against multi-million-dollar products liability claim, obtaining non-suit from plaintiff in exchange for nothing from client.

Commercial Litigation

Jimmy also has significant experience in complex commercial disputes involving breach of contract, business torts, professional negligence, and deceptive trade practices. His representative experience in the commercial litigation arena includes:

Successfully defending home healthcare organization against breach of contract and conversion claims, obtaining non-suit from plaintiff at no out-of-pocket expense to client.

Securing summary judgment on claims for breach of contract arising out of real estate transaction (including award of all attorneys fees and costs).

Assisting Fortune 100 company in successful defense of multi-million-dollar breach of contract and business tort suit, obtaining summary judgment in favor of client and protecting judgment on appeal.

Representing petrochemical company in arbitration of dispute regarding limitation of damages provision in long-term supply contract.

Representing franchisee in appeal of $454 million jury verdict on franchisees breach of contract and business tort claims.

Assisting automotive products manufacturer in successful prosecution of misappropriation of trade secret and Computer Fraud and Abuse Act claims.

Assisting financial services provider (and related entities) in successful prosecution of several theft of trade secret claims against departing employees; obtained judicial decrees and/or preliminary injunctions enforcing terms of non-competition and non-disclosure agreements.

Representing auto parts retailers in declaratory judgment actions concerning clients alleged misuse of protected marks; obtained favorable settlements for clients in advance of trial.

Successfully assisting Fortune 1000 company in combating misuse of trademark and disclosure of trade secrets in publicly-available Internet fora; offending parties agreed to remove offending statements and materials without necessity of suit.

Successfully enforcing trademark rights of marketing consulting firm; offending party agreed to remove offending statements and materials from Internet website without necessity of suit.

Representing pharmaceutical manufacturers in products liability lawsuits involving alleged injuries from prescription drugs.

Serving as monitoring counsel in medical malpractice suits stemming from physicians allegedly improper prescription of thrombolytic medicines.

Defending medical device manufacturer against claims of patent infringement, theft of trade secrets, and tortious interference; defeated application for injunctive relief and obtained dismissal of lawsuits in exchange for nothing from client.

Defending pharmaceutical company against claims for breach of licensing agreement involving exclusive right to manufacture, sell, and distribute over-the-counter drug.

Defeating multi-million-dollar business tort claims against international biopharmaceutical company; obtained summary dismissal of claims ninety (90) days after lawsuit was served.

ARTICLES & PRESENTATIONS

Fifth Circuit Holding Addresses Scope of BI Coverage Under Cyber Policy, *Claims Journal*, March 12, 2024, co-author

Fifth Circuit Holding Addresses Scope of Business Interruption Coverage Under Cyber Policy, *The Zelle Lonestar Lowdown*, February 16, 2024, co-author

"Five Recent Texas Cases You Need To Know About," Zelle 2024 *What the Hail?* Conference, Irving, TX, February 8, 2024, presenter

Morakabian and Rosales Signal a Consensus View on Recovery of Attorneys' Fees After Appraisal, *The Zelle Lonestar Lowdown*, July 11, 2023, co-author

Morakabian and Rosales Signal a Consensus View on Recovery of Attorneys'

Fees After Appraisal, *Claims Journal*, June 27, 2023, co-author

Insurer's Payment of Appraisal Award and Interest Precludes Claim for Attorneys' Fees, *The Zelle Lonestar Lowdown*, May 9, 2023, co-author

"A Reprieve from the Deluge of Hail Litigation in Texas," *Texas Law360,* February 21, 2017, co-author

"Weather Damage Claims What the Hail is the Fuss All About," "Myths and Realities of Bad Faith Claims in the United States," and "Ethical Considerations When Adjusting and Handling Weather Damage Claims," Texas Association of Mutual Insurance Companies (TAMIC) Annual Convention, Round Rock, TX,October 24-25, 2016, co-presenter

Ten Cases You Must Be Familiar With, Texas Hail Damage Claims SeminarWhat The Hail Is Going On?, Dallas, TX, May 19, 2016,presenter

"*Graber v. State Farm* is a Texas Prompt Payment Outlier," *Texas Law360,* August 10, 2015, co-author

The Emerging Hail Risk: What the Hail is Going On?, Loss Executives Association 84th Spring Meeting, Newport, RI, June 10-12, 2015, co-presenter

"LLCs Not Subject To Texas Attorney Fee Statute ... For Now,"*Texas Law360*, May 15, 2015, author

Hail Damage Claims: What The Hail Is Going On?, PLRB 2015 Claims Conference & Insurance Services Expo, Anaheim, CA, March 29 April 1, 2015, co-presenter

"Fracking Bans Don't Trigger Civil Authority Coverage,"*Texas Law360*, January 7, 2015,co-author

"2014 Hail-Related Insurance Litigation Year In Review," *InsuranceLaw360*, December 23, 2014, author

"*AMJ Investments* May Not Alter Texas Claims Landscape," *Texas Law360*,September 24, 2014, author

"Texas' Atty Fee Statute Elevating Form Over Substance?,"*Texas*

ZELLE LLP

James W. Holbrook, III

Law360,April 23, 2014, author

PROFESSIONAL AFFILIATIONS

State Bar of Texas; Litigation Section, Insurance Section

Washington State Bar Association; Litigation Section

Dallas Bar Association; Publications Committee, Minority Participation Committee

American Bar Association; American Bar Association INS Detention Standards Project

Tacoma-Pierce County Bar Association

COMMUNITY SERVICE

Board of Trustees, Westwood Beach Property Owners Association

Member, The Childrens Trust Childrens Medical Center

PAST PROFESSIONAL EXPERIENCE

Hughes & Luce, L.L.P., Associate, Complex Commercial Litigation, 2001-2006