



# Richard A. Simpson

Partner



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Rick has a national practice, with an emphasis on appellate litigation, defending claims against lawyers and other professionals, providing legal ethics advice and representing lawyers in disciplinary proceedings, and representing insurers in coverage/"bad faith" litigation. He has also represented individuals (including White House officials and a U.S. Senator) in connection with criminal and congressional investigations and has an active pro bono practice.

Rick has substantial jury and bench trial experience. He has presented oral argument in the United States Courts of Appeals for the First, Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth and Ninth Circuits, the Supreme Courts of Connecticut, Delaware, Ohio, and North Carolina, and intermediate appellate courts in California, Maryland, New York, and Texas; he has also acted as lead counsel in cases decided without argument in the Eleventh and D.C. Circuits and in a Florida state appellate court. Rick has handled a number of cases that received substantial press attention.

Rick is currently the Chair of the American Bar Association (ABA) Standing Committee on Lawyers Professional Liability. He works regularly with students and faculty members of the University of North Carolina School of Law 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.

*The Legal 500 US* regularly rates Rick as a "recommended lawyer" in Insurance Law, noting he is "fantastic" (2016) and a "great analyst recommended for his ability to comprehensively understand business" (2015). He is also recognized as an "excellent appellate and trial court advocate" (2014).

Rick served as an Assistant U.S. Attorney for the Southern District of New York. He also held positions in the Office of Legal Counsel at the U.S. Department of Justice, in the Office of Independent Counsel

## 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; 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 (1977-1978)

### 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, Northern District of Florida, Northern District of Illinois, Northern District of Texas, Western District of Michigan, Western District of North Carolina, and Western District of Virginia

Curtis Emery von Kann, and in the Office of Independent Counsel James C. McKay.

## Representative Matters

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- 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 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." 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.
- As appellate counsel, 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 insurer adjuster. The decision will be 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 against the insurer in a case involving whether a comprehensive general liability policy provided coverage for hundreds of asbestos claims, obtaining 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 accountants 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 appellate counsel, obtained affirmance by the Ninth Circuit of a summary judgment in favor of a Washington State law firm in a claim alleging millions of dollars in damages arising from the handling of an underlying lawsuit relating to an international ship charter arrangement (2017). Rick's oral argument can be heard [here](#) (May 19, 2017).
- Prevailed on motion to dismiss a claim asserted against a New York law firm alleging millions of dollars of damages arising from an underlying securities transaction, with the court holding that the claims were barred both by the doctrine of *in pari delicto* and judicial estoppel (2017).

- Prevailed on a motion to dismiss claims seeking damages in excess of \$10 million asserted against a lawyer in his capacity as a chapter 7 bankruptcy trustee (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).
- Represented an insurance broker for post-trial motions following a jury verdict and judgment of over \$23 million in a professional liability case; Judge Rakoff granted the motion for new trial. *Cammeby's Mgmt. Co. v. Affiliated FM Ins. Co.*, 152 F. Supp. 3d 159 (S.D.N.Y. 2016).
- Represented accounting firm on appeal in a case arising from the Madoff fraud, obtaining affirmance by the Second Circuit of the district court's decision dismissing plaintiffs' negligence and professional malpractice claims for failure to state plausible claims of breach of duty. *DeLollis v. Friedberg, Smith & Co.*, 600 F. App'x 792 (2d Cir. 2015), *aff'g*, 933 F. Supp. 2d 354 (D. Conn. 2013).
- 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 often used to defend legal malpractice claims. *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).
- Represented an individual pro bono in a civil rights case against the Baltimore Police Department that resulted in a settlement agreement under which the Police Department agreed to substantial changes in its policies and training program regarding the constitutional right of citizens to record police activity.
- Represented the American Civil Liberties Union of Maryland and individual clients pro bono in the Maryland Court of Special Appeals in a Maryland Public Information Act case arising from the creation of dossiers regarding political opponents, obtaining important precedent regarding the Act in a case of first impression. *Civil Liberties Union Found. of Md. v. Leopold*, 223 Md. App. 97 (Md. Ct. Spec. App. 2015).
- Currently representing lawyers, accountants, and other professionals in state and federal courts nationwide.
- Currently providing legal ethics advice to law firms and representing lawyers in connection with the disciplinary proceedings before State Bars and the U.S. Patent Office.
- Currently representing several insurance carriers nationally in insurance coverage and bad faith litigation.
- Represented a U.S. Senator who was the subject of a criminal investigation.
- Represented two high-ranking White House officials in connection with investigations by Congress and independent counsel Kenneth Starr of the Whitewater and Monica Lewinsky matters.

## Professional Experience

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- 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)
  - Chair, ABA Standing Committee on Lawyers' Professional Liability (2019-Present)
  - 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-Present)
- 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, 2018, and 2019)
- Named by *The Legal 500 US* a "recommended lawyer" in Insurance Law (2014-2016, 2018) and Supreme Court and Appellate Law (2015, 2019)
- Named one of DC's "Super Lawyers" for Appellate by *Super Lawyers* magazine (2013-2020)
- 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 (1 of 4 candidates receiving highest rating)