

Rafael Vergara

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Rafael's knowledge in trial court and appellate court matters benefits clients from the commencement of an action through an appeal.

OVERVIEW

Rafael Vergara's litigation practice focuses on defending insurance companies and other entities in lawsuits. He handles commercial disputes, insurance coverage issues, life insurance matters, and representation in incidents at assisted living facilities and nursing homes. He also has experience in litigating cases involving individual disability insurance, ERISA, products liability, asbestos, and insurance broker liability. From the commencement of an action through an appeal, Rafael's knowledge in trial court and appellate court matters benefits clients.

While in law school, Rafael served as a Managing Editor of the *Rutgers Law Review* and as a Legal Research and Writing Teaching Associate. After law school, and prior to embarking on a career in private practice, he was a judicial law clerk in the Superior Court of New Jersey, Law Division, Special Civil Part.

REPRESENTATIVE MATTERS

White and Williams Secures Reversal of Critical Ruling Involving Confidential and Proprietary Business Information

7.7.16

Schumacher v. Sunrise Senior Living Mgmt., 2021 U.S. Dist. LEXIS 5166 (E.D.N.Y. Jan. 11, 2021); involving federal jurisdiction issue

Renk v. Renk, 188 A.D.3d 502 (N.Y. App. Div. 1st Dept. 2020); commercial litigation dispute involving a family business

McIntyre v. Bradford White Corp., 2020 NY Slip Op 51034(U), 68 Misc. 3d 1220 (A), 130 N.Y.S.3d 632 (Sup. Ct. 2020); products liability issue regarding water heater



PRACTICES

Appellate
Commercial Litigation
Financial Lines
First-Party Property
Healthcare
Insurance Coverage and Bad Faith
Life, Health, Disability and ERISA
Litigation

BAR AND COURT ADMISSIONS

New Jersey
New York
U.S. Court of Appeals the Second Circuit
U.S. Court of Appeals for the Third Circuit
U.S. District Court for the District of New Jersey
U.S. District Court for the Eastern District of New York
U.S. District Court for the Northern District of New York
U.S. District Court for the Southern District of New York

EDUCATION

Rutgers University School of Law, JD, 1999
Kean College of New Jersey, BA, 1996

Sternberg v. Paul Revere Life Ins. Co., 2020 U.S. Dist. LEXIS 1718 (S.D.N.Y. Jan. 3, 2020); disability insurance policy issue

Pub. Serv. Mut. Ins. Co. v. Nova Cas. Co., 2019 NY Slip Op 08270, ¶ 1, 177 A.D.3d 472, 472, 114 N.Y.S.3d 47, 48 (N.Y. App. Div. 1st Dept. 2019); insurance coverage declaratory judgment action stemming from personal injury action

Dorville v. Royal Farms, Inc., 169 A.D.3d 863, 92 N.Y.S.3d 676 (N.Y. App. Div. 2nd Dept. 2019); Labor Law § 240

Khazin v. Geowearth Mgmt., LLC, Civil Action No. 17-11487 (SDW)(CLW), 2018 U.S. Dist. LEXIS 96932 (D.N.J. June 7, 2018); involving a motion to certify an order for an interlocutory appeal

Estate of Litwin v. Emeritus Corp., No. 14-5847 (NLH/KMW), 2017 U.S. Dist. LEXIS 107696 (D.N.J. July 12, 2017); represented defendants who were granted partial summary judgment

Frimpong v. Sunrise Senior Living, Inc., Civil Action No. 16-3917-BRM-LHG, 2016 U.S. Dist. LEXIS 146711 (D.N.J. Oct. 24, 2016); involving a motion to remand a case removed to federal court

Skelcy v. UnitedHealth Grp., Inc., 620 F. App'x 136 (3d Cir. 2015); represented defendants-appellees who prevailed in position that they did not owe a duty of care like that which might be found in a physician-patient relationship

Successfully argued to the New York Supreme Court, Appellate Division – First Department that a reinsurer's statute of limitations defense should be decided by arbitration panel rather than the court

QBE Ins. Corp. v. Adjo Contracting Corp., 997 N.Y.S.2d 425 (2014); argued appeal pertaining to a commercial general liability insurer's duty to defend under New York law

Andreyko v. Sunrise Senior Living, Inc., 993 F.Supp.2d 475 (D.N.J. 2014); first published case in New Jersey recognizing that unlike nursing home residents who may bring lawsuits seeking compensatory and punitive damages, plus attorney's fees, for rights violations under New Jersey's Nursing Home Responsibilities & Rights of Residents Act, specifically N.J.S.A. § 30:13-8, assisted living residents were held not to have the same statutory remedy available to them

Quiles v. Bradford-White Corporation, Slip Copy, 2012 WL 1355262 (N.D.N.Y.); represented water heater manufacturer in products liability case in which design defect claim was dismissed

Whippoorwill Hills Homeowners Ass'n, Inc. v. Toll at Whippoorwill, L.P., 91 A.D.3d 864, 937 N.Y.S.2d 595 (2d Dept. 2012)

Arias v. PM Partners, 90 A.D.3d 490, 934 N.Y.S.2d 160 (1st Dept. 2011); represented bank in personal injury action involving fall on sidewalk

Utak v. Commerce Bank Inc., 930 N.Y.S.2d 575 (1st Dept. 2011); successfully argued appeal resulting in the dismissal of a banking client named as a defendant in a false arrest and false imprisonment case

Flangos v. Flangos, 82 A.D.3d 1037, 919 N.Y.S.2d 181 (2d Dept. 2011); successfully argued appeal on behalf of an insurer, which resulted in the vacating of a judgment insofar as it directed the insurer to make certain payments

Keir v. Unumprovident Corp., 2010 WL 3566878 (S.D.N.Y. Sept. 14, 2010)

Carl v. Cohen, 55 A.D.3d 478, 868 N.Y.S.2d 7 (1st Dept. 2008)

Them-Tuck Chung v. Pinto, 26 A.D.3d 428, 809 N.Y.S.2d 572 (2d Dept. 2006)

Conti v. Equitable Life Assur. Soc. of U.S., 227 F.Supp.2d 282 (D.N.J. 2002)

IN THE NEWS

Rafael Vergara Discusses Newark Office Managing Partner Role
Law360 Pulse, 10.13.21

White and Williams Announces New Office Managing Partners
10.5.21

Rafael Vergara Weighs In On New Jersey Assisted Living Decision
McKnight's Senior Living, 7.2.21

White and Williams Sponsors DRI Nursing Home/ALF Litigation Seminar
8.20.19

White and Williams Lawyers Host Mock Argument Exercise for New Jersey LEEP Students
7.19.16

PUBLICATIONS

New York Civil Practice Will Allow Unnotarized Affirmations Instead Of Affidavits
Client Alert, 12.18.23

NJ Appellate Court Rules Investigative Documents Created in Compliance With the Patient Safety Act Are Protected
Healthcare Alert, 6.27.23

New Jersey Appellate Court Requires Affidavit of Merit in COVID-19 Litigation Against an Assisted Living Facility
Healthcare Alert, 9.30.22

New York's Highest Court Says Asbestos Causation Requires Evidence Of Sufficient Exposure To Sustain Liability
Litigation Alert, 5.3.22

New York Alleviates Some Requirements of the Comprehensive Insurance Disclosure Act
Litigation Alert, 3.10.22

New York Now Requires Defendants To Provide Automatic, Early Disclosure of Insurance Information
Litigation Alert, 1.4.22

New Jersey Disallows Private Causes of Action Against Assisted Living Facilities for Breach of the Statutory Bill of Rights
Healthcare Alert, 6.23.21

A Framework for Mitigating Liability Claims for Eldercare Facilities

Healthcare Alert, 4.20.20

Favorable Decision for New Jersey Property Owners Regarding Snow and Ice Removal

Litigation Alert, 1.28.20

Total Disability Definition Construed by New York Federal Court

Life, Health, Disability and ERISA Alert, 1.13.20

New York City Courts Put Lawsuits Under the Child Victims Act on Hold

Litigation Alert, 12.12.19

Nursing Homes Defending NY Lawsuits Brought by an Estate Should Scrutinize Whether the Plaintiff has Legal Capacity to Assert Claims

Healthcare Alert, 9.9.19

NY Federal Court Refuses to Consider Extrinsic Evidence of an Insurer's Claim Handling for a Different Policyholder

Insurance Coverage and Bad Faith Alert, 8.27.19

Medical Document Reviewer Hired by an Insurer Does Not Owe a Duty to an Insured, Says the Third Circuit Court of Appeals

Healthcare Alert, 9.29.15

New Jersey Judge Calls for Retrial in Case of Nursing Home Act

Healthcare Alert, 6.19.15