



## J. Richard Harmon

Partner

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J. Richard “Rick” Harmon has built a broad and diverse practice over the last 30 years in which he advises domestic and London market insurers and syndicates on coverage, property, excess and *Stowers* doctrine issues and policyholders and commercial clients in complex civil litigation matters that allows him to draw on his extensive experience and develop strategies tailored to a client’s particular needs and ultimate goal.

Rick can switch between roles easily from analyzing a case, to figuring out the most compelling strategy, to striking an aggressive position in a settlement or in court. He will always push his clients towards the best option for them and never takes the path with the least resistance.

His coverage experience involves all lines of insurance, including general liability, commercial auto/trucking, professional and employment liability, excess liability, and directors & officers liability. He represents insurers in coverage actions state and federal counsel in Texas and several other states. He defends insurers in first-party property matters involving personal and commercial lines policies and has successfully tried multiple cases to verdict. Rick also vigorously defends policyholders and companies in a wide variety of areas, including energy/oil and gas, premises liability, commercial auto and trucking, construction defect, and commercial litigation, and serves as lead counsel in numerous cases involving wrongful deaths, catastrophic injuries, and multi-million-dollar property damage disputes.

### Insurance Coverage/*Stowers*

Rick has prosecuted or defended hundreds of insurance coverage cases in Texas and multiple other jurisdictions in the United States. He successfully represented clients in appeals involving complex coverage issues before the U.S. Courts of Appeals for the Fifth, Eighth, and Tenth Circuits, multiple Texas intermediate appellate courts and the Texas Supreme Court.

Rick is indispensable and knowledgeable about all components regarding *Stowers* issues. He can evaluate, advise, and guide insurers on their potential exposure and the steps they should take. He was the lead attorney

for the prevailing insurer before the Texas Supreme Court in *Monroe Guaranty Insurance Co. v Bitco General Ins. Corp.*, one of the most significant insurance decisions in Texas in the last decade. He is “go to” counsel in Texas for numerous insurance clients for advice on complex coverage matters and high-stakes *Stowers* issues.

### **First-Party Property/Bad Faith**

Rick has spent his entire career defending personal lines and commercial insurance property insurers in first-party contract and bad faith cases. He was lead counsel for an insurance client in more than 700 suits from Hurricane Ike and designed strategies to effectively gather and process claim information and settle cases early in the litigation process.

Rick was lead trial counsel in a Hurricane Katrina suit involving nine apartment complexes and devised a coverage strategy on anti-concurrent causation clause that led to a complete victory for the client on appeal in *Arm Properties Management v. RSUI Indemnity Co.*, resulting in a significant positive impact for insurers in Texas involving “wind v. water” claims. He has also been lead counsel for property insurers in multi-district litigation all over Texas involving weather-related catastrophes.

### **Third-Party and Commercial Defense**

Rick devotes a substantial amount of his practice to defending companies and individuals in cases across the state. Recently, he defended a contractor in a nuisance/property damage case in Jefferson County involving more than 1,000 plaintiffs. The case was resolved through a sophisticated process that Rick engineered and implemented.

Rick defends high-exposure cases involving catastrophic injury and wrongful death with a current emphasis on energy and transportation matters. Rick’s third-party defense practice spans the entire state, from the Panhandle to the Rio Grande Valley and from deep East Texas to El Paso.

### **Excess/Umbrella Insurance**

Rick advises many excess/umbrella insurance clients, serving as monitoring counsel, coverage counsel, or in both roles. Because of his experience as lead defense in high-exposure cases, Rick can associate in as lead or co-defense counsel and try the case if the need arises. He also serves in a coverage role and has represented excess insurers in some of the largest coverage litigation in the United States in the last five years.

### **Representative Experience**

Lead trial counsel in first-party property suit resulting in unanimous defense verdict.

Lead trial counsel in suit brought against insurer in Hidalgo County resulting in defense verdict.

Lead counsel for insurer client in coverage litigation involving the sexual abuse claim from the Boy Scouts of America bankruptcy plan.

Lead counsel in landmark coverage decision by the Texas Supreme Court regarding use of extrinsic evidence in third-party coverage litigation.

*Monroe Guaranty Ins. Co. v Bitco General Ins. Corp*, 640 S.W.3d 195 (Tex. 2022)

Successfully argued case before Fifth Circuit resulting in favorable decision to client in coverage dispute involving interrelated claims provision under employment/D&O policies.

*API Worldlink v RSUI Indemn. Co*, 932 F.3d 369 (5th Cir. 2019)

Represented excess insurer in Delaware suit involving complex nine figure dispute over coverage and an alleged fraudulent settlement under Professional Liability policy resulting in favorable settlement.

Obtained summary judgment from United States District Court for Northern District of Texas in seven figure dispute over coverage and a commercial property policy for damage from Winter Storm Uri.

Lead counsel for excess insurer in coverage dispute in federal court in Minnesota resulting in precedent-setting decision by Eighth Circuit Court of Appeals regarding allocation of a jury award that included covered and uncovered damages.

*RSUI Indemnity Co. v New Horizon Kids Quest, Inc.*, 933 F.3d 960 (8th Cir. 2019)

Obtained favorable decision from U.S. Court of Appeals for Tenth Circuit in coverage dispute involving number of occurrences based on largest e.coli outbreak in U.S. history.

*Republic Underwriters Ins. Co. v. Moore*, 493 F. App'x 907 (10th Cir. 2012)

Favorable resolution of several large property insurance lawsuits for clients involving Hurricanes Dolly and Ike.

Negotiated favorable multi-million dollar settlements in several high-profile products liability and premises cases in South Texas on behalf of excess insurers.

Negotiated settlement for excess insurer in bus fire case involving multiple deaths.

Obtained summary judgment on behalf of insurer on contractual indemnity claim involving seven-figure damages.

Represented insurer in commercial property dispute involving nine apartment complexes damaged by Hurricane Katrina and formed coverage strategy resulting in landmark favorable decision by Fifth Circuit of application of anti-concurrent causation clause in "wind v water" claims.

Obtained summary judgment on behalf of insurer in class action involving thousands of potential claims relating to overhead/profit issues.

Served as lead MDL counsel on numerous commercial and personal lines cases involving Hurricanes Rita, Dolly and Ike.

Obtained favorable opinion from Texas Supreme Court in large commercial dispute in which client sought to compel arbitration under an agency contract.

Counseled insurance client regarding a multitude of coverage issues and assisted insurer in resolving several national pharmaceutical and medical device cases involving global insurance programs.

Lead trial counsel in suit to recover proceeds paid by insurance client from another insurer resulting in favorable unanimous verdict and full recovery for client.

## Awards & Recognition

### THE BEST LAWYERS IN AMERICA

Listed for Insurance Law

2019-2025

### CHAMBERS USA GUIDE

Ranked Band 4 for Insurance in Texas

2024

### TEXAS SUPER LAWYERS

Insurance Coverage, Civil Litigation: Defense, Personal Injury - General: Defense

2006-2007, 2009-2024

### THE BEST LAWYERS IN AMERICA

Lawyer of the Year list

2023

### SUPER LAWYERS - CORPORATE COUNSEL EDITION

Listed for Insurance Coverage

2010

### MARTINDALE HUBBELL

AV Peer Review Rated

## Related Services

General Liability/Catastrophic Injury

Insurance

Products Liability & Mass Torts

## **Publications & Speaking Engagements**

Texas Supreme Court Issues Significant Decision on Exception to “Eight Corners” Rule

Feb 11, 2022

“Forces of Nature” Encompasses Weather Events

Mar 17, 2021

Texas Supreme Court Recognizes Exception to Eight Corners Rule

May 1, 2020

Looking Forward to 2019 – “Texas-Sized” Verdicts in 2018

Jan 28, 2019

Fifth Circuit Holds that Texas Law Immunizes Law Firm from Liability for Alleged Misrepresentations Made to Excess Insurer

Jan 2, 2019

Texas Supreme Court Reaffirms Incorporation of Other Documents By Additional Insured Clauses

Feb 13, 2015

Texas Supreme Court Disallows Discovery of Unrelated Claim Files

Oct 31, 2014

Houston Court of Appeals Finds Punitive Damages Are Covered by Commercial Policies, but Remands the Case for Determination of the Public Policy Issue

Sep 2, 2014

Texas Supreme Court Upholds Denial of Coverage Based on Vacancy Provision

Sep 2, 2014

Fourteenth Court of Appeals Muddies Waters on Policy Benefits and Extra-Contractual Benefits

Jul 1, 2014

Fifth Circuit Reinstates Appraisal Award Set Aside by Trial Court

Sep 18, 2013

Texas Supreme Court Expands Liability for “Property Damage” and Limits Enforceability of Consent-To-Settlement Requirements

Aug 26, 2013

Superstorm Sandy: Lessons Insurers Can Learn From Gulf Coast Hurricanes

Declarations, International Association of Claim Professionals, Winter 2013

Mar 1, 2013

## Fifth Circuit Holds Coverage for Faulty Workmanship Barred by the Contractual Liability Exclusion

Jun 18, 2012

## Texas Supreme Court Limits Evidence on Medical Expenses

Jul 5, 2011

## New Legislation Affects Risk Shifting In Certain Construction Contracts

Jun 22, 2011

## Texas Supreme Court's Decision on Waiver of Appraisal – In re Universal Underwriters

May 6, 2011

## King v. Dallas Fire Insurance Company: Is There Coverage for Intentional Acts?

Dec 6, 2001

## **Education, Admissions & Activities**

### EDUCATION

Texas Tech University School of Law

J.D., cum laude, 1991

Order of the Coif

Phi Kappa Honor Fraternity

The University of Texas at Arlington

B.S., 1987

### BAR ADMISSIONS

Texas

1991

### COURT ADMISSIONS

United States District Court of Texas

Northern, Southern, Eastern, and Western

United States Court of Appeals

Fifth Circuit

United States District Court of Wisconsin

Eastern

United States District of Oklahoma

Eastern and Western

### PROFESSIONAL AND COMMUNITY ACTIVITIES

Property Loss Research Bureau

Defense Research Institute

Texas State Bar

Tort and Insurance Section

Claims & Litigation Management Alliance

Federation of Defense & Corporate Counsel

American College of Coverage & Extracontractual Counsel