

## Carl E. Forsberg

Shareholder

Carl's busy litigation practice emphasizes first and third-party coverage opinions/litigation, extra-contractual matters, general defense matters, and the defense of alleged bad faith claims as well as environmental defense. He is licensed to practice law in Washington, Alaska and Oregon and has represented clients through-out the United States, with particular emphasis in the Western states.

Carl has extensive trial experience, initially as an Assistant District Attorney in Anchorage, Alaska, and he continues with an active trial practice now. He is frequently asked to serve as a King County Superior Court Arbitrator and is a National Institute of Trial Advocacy, trial and deposition skills, instructor, as well as a guest lecturer at the Seattle University School of Law. He is an author and frequent lecturer on topics related to his primary practice areas along with pre-trial and trial-related issues.

### PRACTICE EMPHASIS AND EXPERIENCE

- Environmental Defense
- Environmental Insurance Coverage
- General Liability Defense
- Insurance Coverage Analysis & Litigation

### RECOGNITION

- Recognized as "Super Lawyer" 2001-2020 in *Super Lawyers* magazine
- Recognized as "Super Lawyer" 2009-2020 in *Super Lawyers Business Edition*
- Recognized as one of "Washington's Top 100 Lawyers," 2010, 2011, 2013-2020 in *Super Lawyers* magazine
- Recognized as one of "Washington's Top Lawyers," July 2010, 2012 - 2020 as selected by peers, in *Seattle Met* magazine
- Recognized as one of the "Top 100 Lawyers in Washington" in 2013 – 2020 in *Seattle Met* magazine



### CONTACT

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### EDUCATION

J.D., Pepperdine University School of Law, 1983

B.A., Gonzaga University, 1980, *magna cum laude*

### BAR / COURT ADMISSIONS

State of Alaska

State of Washington

State of Oregon

U.S. District Court, District of Alaska

U. S. District Court, Eastern District of Washington

U. S. District Court, Western District of Washington

U.S. Court of Appeals, Ninth Circuit

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- Received the “2018 President’s Award” from the King County Bar Association
- Received the “2013 Outstanding Lawyer of the Year” from the King County Bar Association
- Named “Defense Trial Lawyer of the Year” in 2010 by Washington Defense Trial Lawyers
- “Judicial AV Preeminent” rated by Martindale-Hubbell, the highest rating obtainable by members of the legal community; and in 2019, received the distinguished “25 years recognition” at this level.

## REPRESENTATIVE CASES

- Represented insurers who issued policies with combined liability limits in excess of \$50 million in multiparty contribution lawsuit regarding potential coverage for over 1,000 toxic tort claims and environmental claims arising out of polluted sites across the country. A seven week jury trial resulted in a partial defense verdict, with the jury concluding that the pollution exclusions in various policies precluded coverage for the environmental claims. The plaintiff insurer filed an interlocutory appeal seeking reversal of the pollution exclusion verdict, and our clients cross-assigned error to the denial of a directed verdict motion regarding the viability of all of the plaintiff’s contribution claims. The appellate court ruled in favor of our clients, holding that the trial court erred by denying the motion for directed verdict.
- Obtained very favorable settlement in dispute involving parallel lawsuits in two states regarding insurance coverage for insured’s alleged liability (claimed to be in excess of \$100 million) at several polluted sites around the country.
- Represented insurers who issued policies with combined liability limits in excess of \$50 million in multiparty contribution lawsuit regarding potential coverage for over 1,000 toxic tort claims and environmental claims arising out of polluted sites across the country. A seven-week jury trial resulted in a partial defense verdict, with the jury concluding that the pollution exclusions in the represented insurers policies precluded coverage for the environmental claims.
- Represented and successfully settled insurers who issued policies with combined liability limits in excess of \$100 million in a lawsuit regarding a nine-figure pollution liability in the Portland Harbor Superfund Site and several other environmental sites.
- Obtained a partial defense verdict in a bench trial regarding the existence and terms of dozens of policies allegedly issued by our clients beginning in the 1940s.
- Represented an insurer in coverage litigation in United States District Court (D. Oregon) against an aircraft parts manufacturer’s claim for indemnity coverage, received summary judgment that the insured’s pretreatment system was an ordinary cost of doing business in compliance with regulatory licensing requirements and therefore not a covered indemnity cost under the liability policies.
- Represented an insurer in coverage/bad faith claim by an insured seeking coverage for damages related to serious injury / fatality auto accident, received summary judgment based on insuring clause language.
- Representation of several insurance carriers in multi-state/multi-party coverage litigation concerning numerous contaminated sites, received several summary judgment victories which led to successful settlement of all known / unknown policies.

## PROFESSIONAL & CIVIC INVOLVEMENT

- Alaska Bar Association

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- Washington State Bar Association
- Oregon Bar Association
- King County Bar Association
  - Judicial Evaluation Committee, Member 1999-2000, Committee Chair 2013-2019
  - Judicial Screening Committee, Member 2000-2019, Co-Chair 2004-2005
  - Judicial Conferencing Committee, Member 2001-2003, 2011-2013
  - Bench Bar Conference, Co-Chair 2006
  - Trustee, 2006-2008
  - Membership Task Force, Chair 2008
  - CLE Advisory Committee, Member 2008-2010
- Northwest Environmental Claims Association, President, 1997-2000
- National Institute of Trial Advocacy, Instructor, 1997-Present
- Washington Defense Trial Lawyers, 1999-Present
- Northwest Insurance Coverage Association, President, 2000-2001
- Council on Litigation Management, Member, 2010-Present

## ARTICLES & PRESENTATIONS

- Presenter: The Effective Use of Demonstrative Evidence and Preparing Your Client for Deposition and Trial Testimony, National Business Institute (NBI), November 1, 2019, Seattle, WA.
- Faculty: 2018 Northwest Deposition Program, “Use of Documents & Laying Foundations in Depositions,” National Institute of Trial Advocacy (NITA), August 1 – 2, 2018
- Presenter: Taking Depositions and Defending your Client’s Deposition, 2018 WAPA Summer Training Program, Washington Association of Prosecuting Attorneys, June 22, 2018
- Presenter: “History and Current Trends with Claim Bar Orders,” Washington Defense Trial Lawyers (WDTL), April 23, 2018
- Presenter: “Preparing and Defending your Client’s Deposition,” Washington Defense Trial Lawyers (WDTL), March 9, 2018
- Presenter: Cross Examination of a Plaintiff’s Medical Expert (American Board of Trial Advocates), November 9, 2017
- Presenter: “Update on Coverage and Bad Faith Cases in 2017”
- Presenter: Preparing Clients to be Deposed and the Deposition of a Client Witness, November 3, 2017
- Presenter: Model Toxics Control Act (MTCA) Environmental Insurance Law Update, September 28, 2017
- Faculty: NITA’s Building Trial Skills Program – Theme / Theory; Direct; Cross, Impeachment and Rehabilitation, July 17-18, 2017
- Presenter: “Defendant’s Deposition Preparation and Defending,” Washington Defense Trial Lawyers Association (WDTL), July 13, 2017
- Presenter: “Trial Preparation from Start to Finish,” IPE, June 28, 2017
- Attorney Retreat: “Identifying and Curbing Litigation Process and Discovery Abuse,” June 23, 2017
- Featured Speaker: “*Perez-Crisantos* Decision Analysis and Follow Up,” Claims & Litigation Management Alliance (CLM), June 21, 2017
- Presenter: “Resolution: The Only Good Claim is a Closed Claim,” 6<sup>th</sup> Annual PSAA Spring Symposium Claims College, March 24, 2017

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- Faculty: “Taking and Defending Defendant’s Depositions,” Seattle U, February 23, 2017
- Faculty: “Defendant’s Depositions,” Seattle U, February 23, 2017
- Faculty: “Avoiding Weakness in your Closing Statement (Argument)” and “Presenting Technical Expert Testimony to the Jury,” National Business Institute (NBI), November 16 and 18, 2016
- Presenter: “Insurance Law Update,” Washington Defense Trial Lawyers (WDTL), February 29, 2016
- Featured Speaker: “Coverage Update and Trends Discussion,” Claims & Litigation Management Alliance (CLM), January 2015
- Co-author: Chapter of the *LexisNexis Practice Guide: Washington Insurance Litigation* regarding the rescission of insurance policies based on misrepresentations made by the policyholder in obtaining a policy; “The Insurance Application and the Insurer’s Remedies for Misrepresentation,” November 2014
- Featured Speaker: “Video Conferencing Depositions – Use, Technology, Legal Requirements, Techniques and Other Considerations,” National Institute of Trial Advocacy (NITA), Deposition Training Seminar, August 13-14, 2014
- Presenter: “Annual Insurance Law Update,” Puget Sound Claims Managers Seminar, May 15, 2014
- Presenter: “Annual Insurance Law Update: Insurance Law 301,” Washington State Bar Association (WSBA) (recent case law updates and trial strategies for both plaintiff and defense counsel in insurance coverage litigation), December 17, 2012
- Panel Member: Discussion on deposition preparation, and defense (mock) of a claims professional’s deposition, Society of Chartered Property and Casualty Underwriters (CPCU) Pacific Northwest Chapter Seminar, Bellevue, WA, February 9, 2012
- Presenter: “Strategic Settlement Milestones—Don’t Let Them Go By Unnoticed: A Defense Perspective,” Washington State Association for Justice’s 34th Annual Insurance Law Seminar, January 26-27, 2012
- Co-Presenter: “How to Try an Insurance Case,” presentation and discussion with Ted Prosis of Tsongas Litigation Consulting on the trial of an alleged bad faith insurance coverage claim, Washington State Bar Association (WSBA), December 12, 2011
- Co-Instructor: “NITA Trial Skills Program,” Justice Africa Advocacy/Kenya School of Law, August 19-27, 2011
- Presenter: Deposition Training Seminar, National Institute of Trial Advocacy, August 16-17, 2011
- Presenter: “Defense Attorneys’ Ethical Obligations in a Reservation of Rights Scenario,” National Business Institute CLE, Insurance Law 2011: Current Case Law, Market Trends and Legal Updates, July 15, 2011
- Presenter: “Scope of Coverage for an Additional Insured and Standards for Determining Whether a Party Is an Insured,” NICA, May 27, 2011
- Presenter: Annual Insurance Law Seminar, Washington Defense Trial Lawyers (WDTL), April 1, 2011
- Presenter: “Insurance Law Primer: Understanding the Essential Components: Defense Attorney’s Ethical Obligations in the Tripartite Relationship,” and panel discussion on “Strategic Considerations in Litigation,” Washington State Bar Association (WSBA), December 2, 2010
- Chair: “2010 Washington Insurance Law Coverage Update,” Forsberg & Umlauf seminar, November 4, 2010
- Chair: “Life of a Construction Defect Claim,” November 1, 2010
- Presenter: “Bad Faith Case Law Review/Update,” Marine Insurance Association of Seattle (MIAS), September 7, 2010

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- Faculty: “Exhibits” and “Closing Argument” Lectures, National Institute for Trial Advocacy (NITA), August 14-18, 2010
- Presenter: “Personal Injury Law Boot Camp from the Defendant’s Perspective,” Washington State Bar Association (WSBA), August 11, 2010
- Chair: “Environmental Coverage/Defense Lectures,” July 29-30, 2010
- Chair: “King County Judicial Forum,” Lorman Educational Services, June 11, 2010
- Presenter: “Evidence and Trial Objections Boot Camp,” Washington State Bar Association (WSBA), February 25, 2010
- Presenter: “Effective Use of Exhibits in Trial,” University of Washington School of Law, February 2, 2010
- Presenter: “Effective Use of Exhibits in Trial,” Washington Defense Trial Lawyers (WDTL), December 11, 2009
- Chair: “Washington Insurance Bad Faith Claims,” Lorman Educational Services, December 10, 2009
- Presenter: “Bad Faith Insurance Claims in Washington,” National Business Institute (NBI), November 13, 2009
- Presenter: “Construction Defect/Coverage,” Training, June 23, 2009
- Presenter: “IFCA/Bad Faith Update/Unfair Claims Practices,” March 6, 2009
- Presenter: “Witness Deposition/Trial Testimony Preparation,” University of Washington School of Law, February 27, 2009
- Presenter: “The Business of the Practice of Law,” Seattle University School of Law, February 12, 2009
- Presenter: “Expert Witness Selection and Preparation,” University of Washington School of Law, February 9, 2009

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## OLDER ARTICLES AND PRESENTATIONS

- Presenter: “Top 5 Insurance Coverage Issues in Washington,” Lorman Educational Services, September 26, 2008
- Presenter: “Trial Skills/Exhibits/Direct and Cross Examination,” National Institute for Trial Advocacy (NITA), September 7-10, 2008
- Presenter: “Deposition Skills/Defending Your Client’s Deposition,” National Institute for Trial Advocacy (NITA), July 30-31, 2008
- Presenter: “Insurance Bad Faith Claims,” Lorman Educational Services, July 22, 2008
- Chair: “Current Issues Impacting Insurance Defense Practice,” National Business Institute (NBI), June 11, 2008
- Chair: “Advanced Trial Practice,” Washington Defense Trial Lawyers (WDTL), April 23, 2008
- Presenter: “Insurance Broker Ethics Update,” March 13, 2008
- Presenter: “Insurance Law From A to Z,” National Business Institute (NBI), February 29, 2008
- Presenter: “Insurance Broker Ethics Review,” February 27, 2008
- Presenter: “Expert Witness Selection and Preparation,” University of Washington School of Law, February 14, 2008
- Presenter: “Insurance Bad Faith Claims in Washington,” Lorman Educational Services, July 19, 2007
- Presenter: “Current Issues Impacting Insurance Defense Practice,” National Business Institute (NBI), June 19, 2007
- Presenter: “Bad Faith Insurance Claims in Washington,” National Business Institute (NBI), November 3, 2006
- Presenter: “Insurance Bad Faith Claims in Washington,” Lorman Educational Services, July 19, 2006
- Chair: “Advanced Trial Tactics Seminar,” Washington Defense Trial Lawyers (WDTL), May 12, 2006
- Chair: “Trial Skills Workshop” (Four-Part Series), King County Bar Association (KCBA), October 5, 12, 19 and 26, 2005
- Presenter: “Insurance Coverage Law in Washington,” National Business Institute (NBI), June 10, 2005
- Presenter: “The Effect of Stipulated Judgments on Coverage and Bad Faith Claims,” Washington Defense Trial Lawyers (WDTL), April 8, 2005
- Presenter: “Good Times for Bad Faith Litigation,” Washington Defense Trial Lawyers (WDTL), March 10, 2005
- Presenter: “Third-Party Coverage in Washington,” National Business Institute (NBI), February 4, 2005
- Presenter: “Taking and Defending Effective Depositions,” Lorman Educational Services, January 21, 2005