

## MICHAEL M. MARICK

### REPORTED CASES:

- Grinnell Mut. Reinsurance Co. v. S.B.C. Flood Waste Sols., Inc., 113 F.4th 768 (7th Cir. Aug. 21, 2024) (application misrepresentation; summary judgment for insurer).
- AXIS Surplus Ins. Co. v. TriStar Cos., LLC, 2023 WL 1927237 (E.D. Mo. Feb. 10, 2023), aff'd, 94 F.4th 767 (8th Cir. 2024) (designated premises limitations, summary judgment for insurer).
- Zurich Am. Ins. Co. v. Syngenta Crop Prot. LLC, No. 135, 2023, 2024 WL 763418 (Del. Feb. 26, 2024) (no “claim for damages” where no policy definition and specific individual claimants are not identified in attorney’s letter; no insurer bad faith).
- Pharm. Care Mgmt. Ass’n. v. Wehbi, 18 F.4th 956 (8th Cir. 2021) (amicus curiae for National Council of Insurance Legislators).
- Giant Eagle, Inc. v. Am. Guar. and Liab. Ins. Co., 2021 WL 6276267 (W.D. Pa. May 25, 2021) (defense costs are not “loss” under primary policy; excess insurer had no duty to defend).
- In re USA Gymnastics, 624 B.R. 443 (Bankr. S.D. Ind. 2021) (policyholder’s bankruptcy-related attorneys fees are not defense costs under general liability policy).
- Joseph T. Ryerson & Son, Inc. v. Travelers Indem. Co. of Am., 2020 IL App (1st) 182491 (no coverage for antitrust conspiracy; demand in excess of limits does not create a conflict and a right to independent counsel; no extracontractual liability; summary judgment for insurer).
- Lexington Ins. Co. v. Hotai Ins. Co., Ltd., 938 F.3d 874 (7th Cir. 2019) (no personal jurisdiction over foreign insurer; insurer dismissed).
- Landis+Gyr Inc. v. Zurich Am. Ins. Co., 2019 WL 208758 (N.D. Ind. Jan. 15, 2019) (pollution exclusion; partial summary judgment for insurer on choice of law, applying New York and Connecticut law).
- First Mercury Ins. Co. v. Ciolino, 2018 IL App (1st) 171532 (malicious prosecution trigger; summary judgment for insurer).
- Motorola Sols., Inc. v. Zurich Ins. Co., 2017 IL App (1st) 161465 (attorney-client privilege and work product protection asserted by insured in coverage litigation).
- Stresscon Corp. v. Travelers Prop. Cas. Co. of Am., 2013 COA 131 , rev’d, 2016 CO 22M (no coverage for settlement prior to notice of claim; no prejudice required; judgment for insurer).
- Wellpoint, Inc. v. Nat’l Union Fire Ins. Co. of Pittsburgh, PA, 989 N.E.2d 845 (Ind. Ct. App. 2013), transfer granted, opinion vacated 6 N.E.3d 950 (Ind. 2014), and opinion aff’d in part, vacated in part, 29 N.E.3d 716 (Ind. 2015), opinion modified on reh’g, 38 N.E.3d 981 (Ind. 2015) (managed care professional liability policy; “loss” and other policy terms).
- Hallmark Specialty Ins. Co. v. Roberg, 2015 WL 5163216 (N.D. Ill. Sept. 2, 2015) (reformation of attorneys professional liability policy; summary judgment for insurer).
- Motorola Sols., Inc. v. Zurich Ins. Co., 2015 IL App (1st) 131529 (interpretation of settlement agreement).
- G.M. Sign, Inc. v. Pennswood Partners, Inc., 2014 IL App (2d) 121276, 2015 IL App (2d) 121276-B (TCPA/fax blast class action settlement; summary judgment for insurer).
- Bridgeview Health Care Ctr., Ltd. v. State Farm Fire & Cas. Co., 2014 IL 116389 (choice of law; amicus curiae for American Insurance Association).

- Bituminous Cas. Corp v. Iles, 2013 IL App (5th) 120485 (limits of liability; amicus curiae for Property Casualty Insurers Association of America).
- Maryland Cas. Co. v. Express Prods., Inc., 2011 WL 4402275 (E.D. Pa. Sept. 22, 2011), aff'd, 529 F.App'x 245 (3d Cir. 2013) (TCPA/fax blast class action settlement; summary judgment for insurer).
- Certain Underwriters at Lloyd's v. Health Care Mgmt. Partners, Ltd., 2006 WL 2050962 (D. Colo. July 20, 2006) (no duty to defend or indemnify insureds against False Claims Act and common law false billing claims; summary judgment for insurer), aff'd, 529 F.3d 916 (10th Cir. 2008), on remand, 2009 WL 1505418 (D. Colo. May 28, 2009) (awarding recoupment of all the defense costs and expenses insurer incurred in defending insureds), aff'd, 616 F.3d 1086 (10th Cir. 2010).
- UnitedHealth Grp. Inc. v. Columbia Cas. Co., 2010 WL 317521 (D. Minn. Jan. 19, 2010) (managed health care company liability coverage dispute; blanket billing exclusion); 2009 WL 5559050 (D. Minn. Apr. 2, 2009) (ripeness and abstention doctrine); 2006 WL 695523 (D. Minn. Mar. 17, 2006) (case or controversy/ripeness).
- Liberty Mut. Ins. Co. v. Jotun Paints, Inc., 2009 WL 86669 (E.D. La. Jan. 13, 2009) (duty to defend; recoverability of litigation expenses incurred prior to tender).
- Am. Cas. Co. of Reading, Pa. v. Health Care Indem., Inc., 520 F.3d 1131 (10th Cir. 2008) ("other insurance"/coordination of coverage among insurers; summary judgment for client insurer).
- Purdue Frederick Co. v. Steadfast Ins. Co., 836 N.Y.S.2d 28 (App. Div. 2007) (no duty to defend antitrust and anticompetitive practices lawsuits; summary judgment for insurer).
- Am Cas. Co. of Reading, Pa. v. Tenet Healthsystem Hosps., Inc., 2006 WL 2631936 (E.D. La. Sept. 13, 2006) (obtained summary judgment that professional liability policy's "other insurance" provision enabled it to apply excess of the insured's self-insured retention under another line of coverage in connection with underlying medical malpractice case).
- State Auto Mut. Ins. Co. v. Kingsport Dev., LLC, 364 Ill. App. 3d 946 (2006) (additional insured coverage/selective tender in favor of insurer's subrogor/insured).
- Eli Lilly and Co. v. Zurich Am. Ins. Co., 405 F.Supp.2d 948 (S.D. Ind. 2005) (summary judgment for insurer on bad faith).
- Assurance Co. of Am. v. Synthrax Innovations, Inc., 2005 WL 2491462 (E.D. Mo., Oct. 7, 2005) (application misrepresentations/recission; summary judgment for insurer).
- Zurich Am. Ins. Co. v. Watts Indus., Inc., 417 F.3d 682 (7th Cir. 2005) (compelling arbitration in favor of insurer).
- Eastern Prods. Corp. v. Cont'l Cas. Co., 58 Mass. App. Ct. 16 (2003) (environmental contamination and GL coverage; late notice and voluntary payments).
- Home Ins. Co. of Ill. v. OM Grp., 2003 WL 21569154 (Ohio Ct. App. July 11, 2003) (no occurrence or property damage caused by insured's product; summary judgment for insurer).
- Travelers Ins. Co. v. Eljer Mfg., 197 Ill. 2d 278 (2001) (summary judgment in favor of insurers whose policies define "property damage" to require "physical injury to tangible property" affirmed; "physical injury" occurs when property is altered in appearance, shape, color or in other material dimension; coverage under policies triggered at time that claimant suffers water damage due to leak of plumbing system).

- Chicago Hosp. Risk Pooling Program v. Ill. State Med. Ins. Exch., 325 Ill. App. 3d 970 (2001) (“selective tender rule” applied to risk pooling trusts; “selected” trust has cause of action for equitable contribution against non-defending insurer).
- Arrow Exterminators, Inc. v. Zurich Am. Ins. Co., 136 F.Supp.2d 1340 (N.D. Ga. 2001) (trigger of coverage for termite infestation damage; partial summary judgment for insurer).
- Tribune Co. v. Allstate Ins. Co., 306 Ill. App. 3d 779 (1999) (late notice of an environmental lawsuit; insured’s estoppel argument rejected; summary judgment for insurer).
- Batzer Const., Inc. v. Valiant Ins. Co., 158 Or. Ct. App. 126 (1999) (sudden and accidental pollution exclusion; summary judgment for insurer), decision vacated on other grounds, 329 Or. 446 (1999).
- Safeskin Corp. v. Federal Ins. Co., No. 719448, 1998 WL 35152857 (July 22, 1999) (where occurrence policy and claims made policy are both triggered, claims made policy is excess where it contains an “excess” other insurance clause as compared to the occurrence policy containing a “pro rata” other insurance clause).
- Padilla v. Norwegian-American Hosp., 266 Ill. App. 3d 829 (1994) (risk pooling trust which settled entire underlying medical malpractice action was allowed to intervene in tort action and, on an equitable contribution theory, recover one-half of the settlement it paid from physician’s professional liability insurer).
- Bercoon, Weiner, Glick & Brook v. Mfrs. Hanover Tr. Co., 818 F. Supp. 1152 (N.D. Ill. 1993) (claims of breach of contract, fraud, and breach of duty of good faith alleged against bank client by prospective sublessee granted).
- Affiliated FM Ins. Co. v. Amcast Indus. Corp., No. 92-4530 (Ohio Comm. Pls. March 3, 1993) (sudden and accidental pollution exclusion; summary judgment for insurer).
- Safety Mut. Cas. Corp. v. Kenneth Hudson, Inc., No. 91-12602-MA (D. Mass., June 22, 1992) (umbrella insurer not obligated to “drop down” due to primary insurer’s insolvency summary judgment in favor of umbrella insurer on late notice defense).
- Mfrs. Hanover Tr. Co. v. Frymire, 1991 WL 274972 (N.D. Ill. Dec. 17, 1991) (bank is holder in due course of promissory note; summary judgment in favor of bank client).
- Safety Mut. Cas. Co. v. Charles Machine Works, Inc., 1990 WL 251842 (N.D. Ill. Dec. 31, 1990) (excess insurer has no “drop down” obligation’ upon insolvency of underlying primary insurer; summary judgment).
- Chemical Bank v. American Nat’l Bank & Tr. Co., 180 Ill. App. 3d 219 (1989) (first mortgagee was not estopped from asserting priority of its mortgage liens and was entitled to agreed-upon additional interest charges upon default).
- Evanston Ins. Co. v. Security Assurance Co., 684 F. Supp. 1423 (N.D. Ill. 1988) (insurance company errors and omissions policy; insurer not estopped to deny coverage based on its claims handling).
- Lazzara v. Howard A. Esser, Inc., 604 F. Supp. 1205 (N.D. Ill. 1985), aff’d in part and rev’d on other grounds, 802 F.2d 260 (7th Cir. 1986) (insurance broker has no claim for contribution against excess insurer which refused to “drop down” to cover gap in coverage; broker is agent of insured for purposes of procuring coverage).

- Pekin Ins. Co. v. Home Ins. Co., 134 Ill. App. 3d 31 (1985) (insurer's settlement by obtaining covenant not to sue in favor of one insured but not another did not constitute bad faith; defense under a reservation of rights did not create an impermissible conflict of interest; summary judgment for insurer).