



ERICA M. BAUMGRAS

MEMBER

Charleston, WV
t. 304.347.4241
f. 304.345.0260
ebaumgras@flahertylegal.com

Erica Baumgras chose to become an attorney because “each case presents a new challenge, interesting issues, a chance to help others and the opportunity to impact the development of the law.” That was over 20 years ago.

Today, Erica’s successful practice focuses on insurance and business law. Her experience allows her to be highly effective while also being efficient as she focuses on “always doing the best possible job, in every case, for every client.”

She is an AV Preeminent® Peer-Review Rated attorney by Martindale-Hubble® and is named in The Best Lawyers in America®.

Having won and resolved cases at every stage of litigation, Erica regularly represents clients before State and Federal Courts and Administrative Boards. She has briefed and argued a number of cases before the West Virginia Supreme Court of Appeals and the Fourth Circuit concerning both insurance and mass tort issues.

Specific to insurance law, Erica has experience offering coverage opinions, filing and defending declaratory judgment actions, litigating bad faith claims, providing general counsel to insurance companies and agencies, and defending agents in errors and omissions claims, as well as representing insured defendants in professional liability, personal injury and property damage cases. Her practice also includes complex and mass tort litigation, including the defense of class actions and product and consumer claims, and the representation of companies in breach of contract actions and fraud claims, as well as in responding to subpoenas and other investigative and enforcement actions by state and federal administrative agencies.

SERVICES

- Commercial
- Complex Tort and Product Liability
- Employment Law
- Insurance Coverage & Defense
- Professional Liability

EDUCATION

- J.D., West Virginia University College of Law (1995)
 - Order of the Coif
 - Order of the Barristers
 - Moot Court Board _ National Moot Court Team
- B.A., Political Science, West Virginia University (1992), Summa Cum Laude
 - University Honors Scholar
 - Phi Beta Kappa

ADMISSIONS

- West Virginia Supreme Court of Appeals
- United States District Courts for the Northern and Southern Districts of

PROFESSIONAL INVOLVEMENT

- Judge John A. Field, Jr., American Inn of Court
- National Society of Professional Insurance Investigators
- Kanawha County Bar Association
- DRI
- USLAW Network

COMMUNITY INVOLVEMENT

- Friends of Clay Center
- Big Brothers Big Sisters of the Greater Kanawha Putnam Area
- Read Aloud West Virginia
- Habitat for Humanity
- Winner, Main Street Perfect Pie Contest, 2004; Runner-Up, 2006

EXPERIENCE

Summary Judgment Granted in Monongalia County
January 2022

REPORTED CASES

- *Travelers Indem. Co. v. U.S. Silica Co.*, 237 W. Va. 540, 788 S.E.2d 286 (2015)
- *West Virginia Employers Mut. Ins. Co. d/b/a BrickStreet Mut. Ins. Co. v. The Bunch Co.*, 231 W. Va. 321, 745 S.E.2d 212 (2013)
- *Ford v. The Caldwell Practice, P.L.L.C.*, No. 11-0882, 2012 W. Va. LEXIS 438 (W.Va. June 8, 2012)
- *West Virginia Employers Mut. Ins. Co. d/b/a BrickStreet Mut. Ins. Co. v. Summit Point Raceway Assoc., Inc.*, 228 W. Va. 360, 719 S.E.2d 830 (2011)
- *Wang-Yu Lin v. Shin Yi Lin*, 224 W. Va. 620, 687 S.E.2d 403 (2009)
- *Phillips v. Larry's Drive-In Pharmacy, Inc.*, 220 W.Va. 484, 647 S.E.2d 920 (2007)
- *Hawkins v. Ford Motor Co.*, 211 W. Va. 487, 566 S.E.2d 624 (2002)
- *Dalton v. Doe*, 208 W. Va. 319, 540 S.E.2d 536 (2001)
- *Smith v. Animal Urgent Care, Inc.*, 208 W. Va. 664, 542 S.E.2d 827 (2000)

West Virginia

- United States Court of Appeals for the Fourth Circuit

- Bower v. Westinghouse Elec. Corp., 206 W. Va. 133, 522 S.E.2d 424 (1999)
- Cheetham v. Locomotive Engineers & Conductors Mut. Protective Assoc., 514 Fed. Appx. 349, 2013 U.S. App. LEXIS 5378 (4th Cir., Mar. 19, 2013)
- Stafford EMS, Inc. v. J.B. Hunt Transport, Inc., 376 Fed. Appx. 317, 2010 U.S. App. LEXIS 8816 (4th Cir., Mar. 26, 2010)
- Atlantigas Corp. v. Columbia Gas Transmission Corp., 210 Fed. Appx. 244, 2006 U.S. App. LEXIS 31251 (4th Cir., Dec. 19, 2006)
- Maxum Indem. Co. v. Westfield Ins. Co., 2:10-CV-00428, 2011 U.S. Dist. LEXIS 7230 (S.D.W.Va. Jan. 25, 2011)
- AGF, Inc. v. Columbia Gas Transmission Corp., No. 2:04-CV-0870, 2009 U.S. Dist. LEXIS 61987 (S.D.W.Va. July 21, 2009)
- Wolfe v. National Medical Care, Inc. d/b/a Fresenius Medical Care North America, No. 2:07-CV-0115, 2009 U.S. Dist. LEXIS 51612 (S.D.W.Va. June 17, 2009)
- Wahi v. Charleston Area Medical Center, 453 F.Supp.2d 942 (S.D.W.Va. 2006)
- Barge v. Western Southern Life Ins. Co., 307 B.R. 541 (S.D.W.Va. 2004)
- Grennell v. Western Southern Life Ins. Co., 298 F.Supp.2d 390 (S.D.W.Va. 2004)
- American States Ins. Co. v. Fishes Hot Dog Huntington, Inc., No. Civ. A. 3:98-0165, 1999 WL 33510174 (S.D.W. Va. 1999)
- Erie Ins. Prop. & Cas. Co. v. Edmond, 785 F. Supp. 2d 561 (N.D.W.Va., 2011)
- State and County Mut. Fire Ins. Co. v. Young, 490 F.Supp.2d 741 (N.D.W.Va. 2007)
- Bertovich v. Advanced Brands & Importing, Co., No. 5:05CV74, 2006 WL 2382273 (N.D.W.Va. 2006)
- Manning v. Pfizer, Inc., No.Civ.A.5:02CV71, 2005 WL 2372853 (N.D.W.Va. 2005)
- Wise v. Travelers Indemn. Co., 192 F.Supp.2d 506 (N.D.W.Va. 2002)
- Parsons Footwear, Inc. v. Omaha Property and Cas. Co., 19 F.Supp.2d 588 (N.D.W.Va. 1998)

REPRESENTATIVE LEGAL WORK

- Represented a manufacturer of underground mine rescue chambers in an intellectual property and breach of contract action
- Represented a law firm in a putative class action alleging fraud in the defense of underlying black lung benefit claims
- Represented a state university in the defense of an action alleging fraud and conspiracy in the licensing of multimedia rights
- Represented a workers compensation mutual insurance company in an action alleging the company improperly charged in agent commission in setting the premium rates
- Represented a land owner in a dispute involving an indemnification claim in a multiple plaintiff flood lawsuit

- Represented an international insurance underwriter in a first-party fire loss claim alleging common law and statutory bad faith in the investigation and denial of the claim
- Represented a state insurance company in a lawsuit alleging violations of the West Virginia Unfair Trade Practices Act and corresponding regulations in the negotiation and litigation of a third-party personal injury claim
- Represented a national insurance company in a class action settlement for the benefit of potential future asbestos claimants seeking the policy proceeds of a now dissolved West Virginia corporation
- Represented a national insurance company on a claim filed by a local manufacturer alleging wrongful denial of coverage for the defense of a medical monitoring lawsuit brought by current and former employees
- Represented a regional medical professional liability insurance company which filed a declaratory judgment action seeking a legal determination of coverage under an insurance policy for failure of the insured to provide notice of the underlying claim
- Represented a national insurance company in a declaratory judgment and bad faith lawsuit asserting wrongful denial of coverage for indemnification of a sexual harassment claim brought against the insured by a former employee
- Representation of a West Virginia insurance agency on various issues of state and federal statutory, regulatory and common law
- Represented an insurance agent in class action alleging fraud in the sale of life insurance policies and obtained a dismissal of the agent
- Represented physicians and pharmacists in several product liability lawsuits against drug manufacturers, distributors, suppliers and prescribing physicians
- Represented a washing machine manufacturer in a West Virginia class action
- Representation of a debit card service provider in an action by the West Virginia Attorney General alleging impermissible tying in violation of the West Virginia Antitrust Act and the West Virginia Consumer Credit and Protection Act
- Representation of a mutual fund in an action by the West Virginia Auditor alleging improper market timing activities
- Represented a medical case management service provider in a wrongful death lawsuit alleging failure to obtain a timely approval or denial of a transplant procedure
- Represented an attorney in a legal malpractice claim brought by the insurance company who retained the attorney to represent the insured truck driver
- Represented a bowling alley in slip-and-fall case
- Negotiated settlements for insured defendants as well as uninsured and underinsured motorist carriers on numerous automobile accident claims alleging personal injury and property damage
- Defense of a claim by a municipality against a road contractor for the West Virginia Department of Transportation, Division of Highways alleging improper erosion and sediment control impacting the adjacent

creek and town water supply.

INSIGHTS

April 2023

15 FLAHERTY ATTORNEYS RECOGNIZED BY SUPER LAWYERS

Flaherty Sensabaugh Bonasso PLLC is pleased to announce that 15 of the firm's attorneys have been named to the 2023 list of West Virginia Super Lawyers and Rising Stars.

No more than 5 percent of a state's lawyers are named to the Super Lawyers list, with just 2.5 percent of a state's ...

August 2022

28 FLAHERTY ATTORNEYS RECOGNIZED BY BEST LAWYERS®

Flaherty Sensabaugh Bonasso is pleased to announce that 28 of the firm's attorneys have been selected for inclusion in the 2023 edition of *The Best Lawyers in America*® and *Best Lawyers: Ones to Watch*.

Additionally, six attorneys were named Best Lawyers 2023 Lawyer of the Year. Only one ...

May 2022

14 FLAHERTY ATTORNEYS RECOGNIZED BY SUPER LAWYERS

Flaherty Sensabaugh Bonasso PLLC is pleased to announce that 14 of the firm's attorneys have been named to the 2022 list of West Virginia Super Lawyers and Rising Stars.

No more than 5 percent of a state's lawyers are named to the Super Lawyers list, with just 2.5 percent of a state's ...

August 2021

TWENTY-EIGHT FLAHERTY SENSABAUGH BONASSO ATTORNEYS RECOGNIZED BY BEST LAWYERS®

Flaherty Sensabaugh Bonasso is pleased to announce that twenty-eight of the firm's attorneys have been selected for inclusion in the 2022 edition of *The Best Lawyers in America*® or *Best Lawyers: Ones to Watch*.

Additionally, Sam Fox was named *Best Lawyers* 2022 Lawyer of the Year ...

August 2020

THIRTY FLAHERTY SENSABAUGH BONASSO ATTORNEYS RECOGNIZED BY BEST LAWYERS®

Flaherty Sensabaugh Bonasso is pleased to announce that thirty of the firm's attorneys have been selected for inclusion in the 2021 edition of *The Best Lawyers in America*® or *Best Lawyers: Ones to Watch*.

Additionally, three Flaherty attorneys were named as *Best Lawyers* 2021 Lawyers of the ...

March 2020

INSURANCE LAW UPDATE ON CORONAVIRUS: BUSINESS INTERRUPTION COVERAGE

By Erica Baumgras

Whether insurance companies will have to pay business interruption coverage claims due to the coronavirus pandemic will be significantly impacted by what is happening on two different fronts: legislative and judicial. We are continuing to monitor both.

We previously ...

March 2020

INSURANCE LAW UPDATE ON COVID-19: WORKERS' COMPENSATION INSURANCE

BY Erica Baumgras

The coronavirus pandemic has already resulted in workers' compensation claims, and more are expected. Whether those claims succeed depends on the individual circumstances and the state where the infection occurred. While compensability issues will play out ...

March 23, 2020

INSURANCE LAW UPDATE ON COVID-19: PART II

[CLICK HERE FOR PART I](#)

By Erica Baumgras

Flaherty will continue to follow developments at both the national and state level, whether in the legislative, administrative, or judicial arena.

Please reach out if you have any questions about how these developments may impact you, your business, or ...

March 23, 2020

INSURANCE LAW UPDATE ON COVID-19: PART III

[CLICK HERE FOR PART I](#)

[CLICK HERE FOR PART II](#)

By Erica Baumgras

Today, March 23, West Virginia Governor Jim Justice issued Executive Order No. 9-20, relating to the closure of certain businesses and limiting the operation of non-essential businesses "because of the propensity of the ...

August 2019

FLAHERTY SENSABAUGH BONASSO ATTORNEYS RECOGNIZED BY THE BEST LAWYERS IN AMERICA© 2020

Flaherty Sensabaugh Bonasso PLLC is proud to announce that 21 of the firm's attorneys have been selected for inclusion in the 2020 edition of *The Best Lawyers in America*.

Additionally, four Flaherty attorneys were named as *Best Lawyers®* 2020 Lawyers of the Year. Only one lawyer in each area ...

March 12, 2019

ERICA BAUMGRAS TO CO-PRESENT "INSURANCE COVERAGE IN THE #METOO AGE"

Erica Baumgras will be co-presenting "Insurance Coverage in the #metoo Age" at the Spring 2019 USLAW NETWORK Client Conference. This premier legal conference brings together legal decision-makers and USLAW NETWORK member attorneys for topnotch education in the areas of ...

August 2018

FLAHERTY SENSABAUGH BONASSO ATTORNEYS RECOGNIZED BY THE BEST LAWYERS IN AMERICA© 2019

Flaherty Sensabaugh Bonasso PLLC is proud to announce that 22 of the firm's attorneys have been selected for inclusion in the 2019 edition of *The Best Lawyers in America*.

Additionally, three Flaherty attorneys were named as *Best Lawyers®* 2019 Lawyers of the Year. Only one lawyer in each ...

May 2016

HAVE NO FEAR, WEST VIRGINIA, UBER IS HERE: BUT NOW WHAT?

by Erica M. Baumgras, as published in The State Journal

5/13/16

In 2016, the West Virginia Legislature passed HB 4228, allowing transportation network companies, known as TNCs, to operate in this state.

[Click here to download](#)

HONORS & AWARDS

- AV Preeminent® Peer-Review Rated by Martindale-Hubble®
- Listed, *The Best Lawyers in America*©
 - Commercial Litigation (2018 - 2023)
 - Insurance Law (2016 - 2023)
- Listed, West Virginia Super Lawyers
 - Insurance Coverage (2022 - 2023)

PRACTICE CONCENTRATIONS

- Analysis of Indemnification and Insurance Agreements, Particularly in Land, Mineral and Construction Contracts
- Contract Disputes Involving Natural Resource Companies
- Intellectual Property Claims Involving the Coal/15/2015/15/2015 Industry
- Defense of Professional Firms, Businesses and Agencies in Fraud Actions
- Coverage Opinions
- Bad Faith Litigation
- Risk and Exposure Analysis for Individuals and Businesses
- Insurance Defense Litigation
- Complex and Mass Tort Litigation
- Defense of Class Actions and Product and Consumer Claims
- Defense of Attorney General Subpoenas and Other Administrative Enforcement Actions