



David J. Buishas is an experienced litigator, with a distinguished track record in handling complex insurance coverage disputes, extra-contractual liability claims, and commercial litigation. He regularly serves as coverage and litigation counsel to domestic and international insurers in matters involving general liability, public entity, professional liability, and excess/umbrella exposures. David's nationwide practice concentrates on briefing and arguing cases at the trial and appellate levels throughout the United States.

Beyond the courtroom, David devotes a substantial part of his practice to counseling clients on effective claim management strategies to resolve pre-litigation disputes. David has developed a reputation for strategic insight, meticulous preparation, and proactive solutions to meet the needs of each engagement. David's insurance practice is also complimented by his civil litigation background, where he represents a wide variety of companies involved in product liability, railroad liability, contract disputes, and civil rights lawsuits.

In 2021, David was selected as one of the "40 Under Forty" Illinois attorneys to watch by Law Bulletin Media, publisher of *Chicago Lawyer* magazine and the *Chicago Daily Law Bulletin*. The honor was given in recognition of David's passion and success in the legal field and his commitment to helping the community, with peers and clients praising him for his great instincts and creative strategies in litigating coverage cases. He has also been selected for inclusion in the annual "Super Lawyers" list published by Illinois Super Lawyers and has been recognized as an "Emerging Lawyer" in the area of Insurance.

PUBLICATIONS

Coronavirus, Courts, and Coverage

Digital Asset Regulation Poses Challenges For Insurers

Do Unpled Facts Trigger the Duty to Defend?

Minnesota High Court Narrowly Construes Additional Insured Coverage

REPRESENTATIVE MATTERS

Adrenaline Sports Management, Inc. v. Greenlayer, LLC, et al., Case No. 1-18-0802 (Ill. Ct. App.) In a unanimous ruling by the Illinois First District Court of Appeals, the court affirmed the circuit court's dismissal of a fraud and breach of contract lawsuit where there was another action pending between the same parties involving the same contract dispute in Oregon state court, and declining to apply judicial estoppel to prevent Greenlayer from arguing that the two competing actions involved the same cause.

Michigan Millers Mut. Ins. Co. v. Westport Insurance Corporation (f/k/a Employers Reins. Corp.), No. 1:14-cv-00151 (W.D. Mich.) Successfully represented reinsurer in a dispute against its cedent regarding the allocation between multiple reinsurance treaties of \$14 million in loss and claim expense that the cedent incurred in connection with five underlying lawsuits, including bad faith claims for failure-to-settle. Issues involved examination of bad faith liability as between umbrella and primary claims handling, as well as protection of reinsurer communications within its in-house legal department.

Contact Information

Email: dbuishas@batescarey.com
Office: (312) 762-3278

Practice Areas

- Admiralty & Maritime
- Bad Faith
- Counseling and Risk Management
- Coverage Litigation
- General Commercial Litigation
- Professional Liability

Education

- Saint Louis University, J.D. 2010
- University of Dayton, B.A. 2005, *cum laude*

Memberships

- Defense Research Institute
- Claims and Litigation Management Alliance
- Chicago Bar Association

Admissions

- Illinois
- Wisconsin
- U.S. Court of Appeals, Third Circuit
- U.S. Court of Appeals, Fourth Circuit
- U.S. Court of Appeals, Seventh Circuit
- U.S. Court of Appeals, Eighth Circuit
- California Central District Court
- Indiana Southern District Court

Waste Management Recycle America, Inc. v. Shawn Lavin, Case No. 10 CH 006665, (Ill. Cir. Ct. 2011), aff'd, No. 2-11-0180 (Ill. App. Ct. 2011) (after a five-day bench trial and subsequent appeal to the Illinois Court of Appeals, established the validity of a covenant not to compete in the employment contract of a former senior level executive of our client)

Successfully resolved series of civil rights lawsuits brought against national nonprofit organization by clients receiving addiction treatment within Illinois correctional facilities. Issues involved constitutional implications of ensuring that patients received access to secular-based counseling and appropriate accommodations for healthcare needs.

Successfully represented client in five-day binding arbitration regarding claim for reinsurance coverage for hundreds of underlying lawsuits involving significant property damage caused by Hurricane Ike.

- Louisiana Western District Court
- Missouri Western District Court
- New York Southern District Court
- Ohio Southern District Court
- Pennsylvania Eastern District Court
- West Virginia Southern District Court
- Wisconsin Eastern District Court

COVID-19 COVERAGE LITIGATION

Coventry's Deli v. State Auto Prop. & Cas. Ins. Co., 2022 WL 4537980 (S.D. Ohio) (Sept. 28, 2022) Obtained dismissal of a putative class action for insurer client over plaintiffs' allegations that presence of COVID-19 on their properties caused structural alterations that required repairs.

Planet Sub Holdings, Inc. v. State Auto Prop. & Cas. Ins. Co., ---F.4th ---, 2022 WL 1951615 (8th Cir.) (June 6, 2022) Ruling that, under Oklahoma, Kansas and Missouri law, the actual presence of COVID-19 is not a "direct physical loss" to property, and that the relevant government orders did not "result from" any alleged infectious disease at the insured's described premises.

Classic Dining v. State Auto Insurance Companies, Case No. 20-CV[1]004107 (Franklin Co., OH.) (Nov. 9, 2021) Finding the insured's restaurants had not been physically changed or ruined by the alleged presence of COVID-19.

Bluegrass, LLC v. State Automobile Mut. Ins. Co., Case No. 20-CV-00414, 2021 WL 42050 (S.D. WV.) (Jan. 5, 2021) "I am unable to find that a regulatory shutdown order is a 'physical loss or damage' as contemplated by the plain language of the parties' contract."

Natty Greene's Brewing Co. v. Travelers Cas. Co. of America, et al., Case No. 1:20- CV437, 2020 WL 7024882 (M.D. NC.) (Nov. 30, 2020) Granting Motion for Judgment on Pleadings based on virus exclusion in all policies at issue.