

ROBERT J. FRANCO

Bar Admissions:

Illinois (1984); New York (2003) and Texas (2007). *United States District Courts:* Northern District of Illinois (General and Trial Bars); Central District of Illinois; Southern District of Illinois; Eastern District of Wisconsin; Western District of Wisconsin; Southern District of Texas; Northern District of Texas; Western District of Texas; Northern District of Indiana; Southern District of Indiana; Eastern District of Michigan; Eastern District of Arkansas; District of North Dakota. *United States Court of Appeals* for the Third, Fourth, Sixth, Seventh, Eighth and Tenth Circuits. *United States Supreme Court*.

Education:

Grinnell College, Southern Illinois University (B.A., Economics 1980); Rutgers University (M.A., Institute of Management and Labor Relations, 1983), (Reuther Scholar); Illinois Institute of Technology/Chicago-Kent College of Law (J.D., 1984).

Member:

American Bar Association (Sections on Litigation; Construction Litigation; Tort & Insurance Practice; Excess, Surplus Lines and Reinsurance; Insurance Coverage Litigation, and the Forum on the Construction Industry); Federal Bar Association (Board of Directors, Chicago Chapter, 1998/99); Illinois State Bar Association (Sections on Insurance Law and Tort Law); Society of Illinois Construction Attorneys; Design Build Institute of America; American Society of Civil Engineers, Chicago Bar Association; Defense Research Institute; and the Appellate Lawyers Association.

Publications:

The School of Medicine Doctrine in Illinois, DCBA Brief, 11 (December, 1989) reprinted in The School of Medicine Doctrine as a Defense to Chiropractic Malpractice Litigation, ACA Journal of Chiropractic, 51 (Aug. 1991); Purchased Testimony: The Problem of Professional Expert Witnesses, 57 Defense Counsel Journal, 525 (October 1990); The Uniform Premarital Agreement Act: An Ill-Reasoned Retreat From The Unconscionability Analysis, 4 American Journal of Family Law, 267 (Fall 1990); The Preemption of State Claims Under ERISA, Illinois Bar Journal, 550 (November 1990); When The Insured Is Notified Of An Environmental Claim . . . Is There A Duty To Defend?, 20 The Brief, 30 (ABA Fall 1990); The Spoilation of Evidence Doctrine In Illinois, Ill. Assoc. Def. Tr. Csl. Monograph, (Fall 1990); Superfund Defense: Extra Steps Necessary With Environmental Claims, Claims, 54 (January 1991); DRI Monograph, Selected Issues In Insurance Coverage, The Contemporary View of the Pollution Exclusion -- A Provincial Approach, 97 (Defense Research Institute, vol. 1990, no. 4, December 1990); The Lost Chance Doctrine Could Bring Recovery For The Increased Risk of Harm, Chi. Bar Assn. Record, 27 (April/May 1991); Insurance Coverage For Sexual Assaults Upon Minors, IDC Quarterly, 8 (Vol. 1, 1991); The Inadvertent Waiver of Privilege, Tort and Insurance Law Journal, 637 (Spring 1991); Environmental Law for Transactional Attorneys, Environmental Litigation, ch. 7 (Ill. Inst. for

CLE, 1991) reprinted in Attorneys Guide To Environmental Liability In Transactions (ABA 1991); Environmental Law for Transactional Attorneys, Insurance Coverage for Environmental Claims, ch. 8, (Ill. Inst. for CLE, 1991) reprinted in Attorneys Guide To Environmental Liability In Transactions (ABA 1991); The Owned Property And Care, Custody And Control Exclusions As Defenses To Environmental Claims, Fed. of Ins. & Corp. Csl. Q., 23 (Fall 1991), reprinted in Declarations, 30 (Summer 1992); Liability In Tort For Criminal Assaults By Third Persons, Shep. Ill. Tort Rptr., 133 (Nov. 1991); The Scope of Attorney Advertising in Illinois, 11 N. Ill. U.L. Rev., 243 (1991); The Insurance Coverage Implications of the Chicago Flood, ch. 5 (Ill. Inst. for CLE, 1992); The Enforceability of Jewish Marriage Contracts in Civil Courts, 6 American Journal of Family Law, 167 (Fall 1992); Insurance Bad Faith: Insurer Liability For Judgments in Excess of Policy Limits, Illinois Bar Journal, 506 (October 1992); The Negligent Hiring Theory of Recovery In Illinois, Shep. Ill. Tort Rptr. at 461 (Nov. 1992); The Types and Uses of Depositions, (Ill. Inst. for CLE, 1994); Wrap-Up Plans: An Effective Loss Control/Management Tool, The Subcontractor at 6 (Amer. Subcontractor Assn., April 1995); Insurance Coverage for Faulty Workmanship Claims Under Commercial General Liability Policies, Tort & Insurance Law Journal, 785 (Spring 1995); Insurance Trend: Retrospective Premium Rating Plans on the Rise, The Subcontractor at 8 (Amer. Subcontractor Assn., June 1995); Damages Under the Illinois Wrongful Death Act,(update) (Ill. Inst. for CLE, 1996); Advertising Injury Claims and the General Liability Insurance Policy, Fed. of Ins. & Corp. Csl. Q., 47 (Fall 1996); Using Expert Witnesses at Trial, (Ill. Inst. for CLE, 1996); Insurance Coverage for Construction Claims, Construction Law In Illinois (Ill. Inst. for CLE, 1997); Types of Insurance Coverage Available to Contractors, Construction-Related Insurance Coverage Issues, (DRI, 1997); Personal Injury Defense and Insurance Coverage Following Repeal Of the Tort Reform And Structural Work Acts (Ill. Inst. for CLE, 1998); Insurance and Risk Shifting Under the 1997 A201 Form (PESI, 1998); Insurer Liability for Judgments in Excess of Limits (Lorman, 1998); Insurer Liability For Failure To Settle Within Limits, (Lorman, 1999); Damages in a Wrongful Death Case: Defendant's Perspective, (Ill. Inst. for CLE, 2000); Insurance Bad Faith: Assignments, Consent Judgments and Covenants not to Execute, Fed. Ins. Corp. Csl. Q. (Winter 2001); The Business Risk Exclusions as a Defense To Coverage for Construction Defect Claims (Mealeys 2003); Insurance for the Construction Industry, (Ill. Inst. For CLE, 2003); Proving and Disproving Damages In Personal Injury Cases; Damages in a Wrongful Death Case: Defendant's Perspective (Ill. Inst. For CLE, 2006; 2012); Co-Editor, Illinois Construction Manual (West 2007, 2012)(co-editor and co-author of chapters on Private Construction Contract Provisions, Professional Liability and Insurance).

Unpublished Monographs:

The Insurance Coverage Aspects of Environmental Claims (1991); Insurance Claims And The Construction Industry (1992); The Illinois Structural Work Act Claims Manual (1993); The Defense of Lead Poisoning Claims (1995); Risk Shifting Under Construction Contracts (1995); The Construction Delay Litigation Manual (1996); Construction Defect Claims Manual (1996); Risk Shifting In Construction Litigation, Illinois CPA Foundation (1996); Illinois Construction Litigation Following the Repeal of the Structural Work Act, Builders Association of Greater Chicago (1996); Professional Liability Insurance for Architects and Engineers (1996); Insurance Coverage for Construction Claims (1996); Property Insurance and the Construction Industry (1996); The Completed Operations Clause of a General Liability Insurance Policy as a Defense to Construction Defect Claims (Am. Contractors. Ins. Group, 1997); Insurance Bad Faith, (Amer.

Rail Labor Attys, 2000); The Right To Privacy and Remedies Under HIPAA, (Am. Contractors Ins. Co. (2002); Construction Risk Shifting in Illinois, (Chgo. Bar. Assoc., 2007); Indemnity and Risk Shifting, (Am. Contractors Ins. Co. (2010).

Appeals/Published Opinions:

Illinois Supreme Court: *Sienna Court Condominium Association v. Champion Aluminum Corporation*, 2018 IL 122022, 129 N.E.2d 1112 (Ill. 2018); *Ill. State Bar Ass'n Mut. Ins. Co. v. Law Office of Tuzzolino & Terpinas*, 2015 IL 117096, 27 N.E.3d 67, 389 Ill.Dec. 575 (2015); *John Burns Const. Co. v. Indiana. Ins. Co.*, 189 Ill.2d 570, 727 N.E.2d 211, 244 Ill.Dec. 912 (2000); *Atkins v. Deere & Co.*, 177 Ill.2d 222, 685 N.E.2d 342, 226 Ill.Dec. 239 (1997); *National Union Fire Ins. Co v. Glenview Park District*, 158 Ill.2d 116, 632 N.E.2d 1039, 198 Ill.Dec. 428 (1994); *Wolf v. Meister-Neiberg, Inc.*, 143 Ill.2d 44, 570 N.E.2d 327, 155 Ill.Dec. 814 (1991); *Waste Management, Inc. v. International Surplus Lines Ins. Co.*, 144 Ill.2d 178, 579 N.E.2d 322, 161 Ill.Dec. 774 (1991).

United States Courts of Appeal: *Black & Veatch Corporation v. Aspen Insurance (UK) Ltd.*, 882 F.3d 952 (10th Cir. 2018); *Westfield Insurance Company v. National Decorating Service, Inc.*, 863 F.3d 690 (7th Cir. 2017); *Metrou v. M.A. Mortenson Co.*, 781 F.3d 357 (7th Cir. 2015); *Craig v. Norton*, 388 Fed. Appx. 228 (3rd Cir. 2010); *Amerisure Mut. Ins. Co. v. Microplastics, Inc.*, 622 F.3d 806 (7th Cir. 2010); *Tonicstar Ltd. v. Lovegreen Turbine Servs.*, 535 F.3d 790 (8th Cir. 2008); *United States Fire Ins. Co. v. Albex Aluminum, Inc.*, 161 Fed. Appx. 562 (6th Cir. 2006); *Pilling v. Va. Prop. & Cas.*, 95 Fed. Appx. 126 (6th Cir. 2006); *Great Lakes Dredge & Dock Co. v. City of Chicago*, 260 F.3d 789, 2001 A.M.C. 2877 (7th Cir. 2001); *Employers Ins. of Wausau v. James McHugh Const. Co.*, 144 F.3d 1097 (7th Cir. 1998); *Roberts & Schaefer Co. v. Merit Contracting, Inc.*, 99 F.3d 248 (7th Cir. 1996); *Pretzel & Stouffer, Chartered v. Imperial Adjusters, Inc.*, 28 F.3d 42, 29 Fed.R.Serv.3d 691 (7th Cir. 1994); *Atlanta Intern. Ins. Co. v. Yellow Cab Co., Inc.*, 972 F.2d 751 (7th Cir. 1992); *Lim v. Central DuPage Hosp.*, 972 F.2d 758, 1992-2 Trade Cases P 69,921 (7th Cir. 1992); *Atlanta Intern. Ins. Co. v. Yellow Cab Co., Inc.*, 962 F.2d 657 (7th Cir. 1992); *National Cycle, Inc. v. Savoy Reinsurance Co. Ltd.*, 938 F.2d 61 (7th Cir. 1991). *Chathas v. Smith*, 884 F.2d 980 (7th Cir. 1988).

Appellate Court of Illinois: *Prospect Funding Holdings, LLC v. Saulter*, 102 N.E.2d 741, 2018 2018 IL App (1st) 171277 (1st Dist. 2018); *Snow v. Power Construction Company*, 2017 IL App (1st) 151226, 78 N.E.2d 587, 413 Ill.Dec. 595 (1st Dist. 2017); *Sienna Court Condominium Assoc. v. Champion Aluminum Corp.*, 2017 Ill.App. 143364, 75 N.E.3d 260; 412 Ill.Dec. 280 (1st Dist. 2017); *Empress Casino Joliet Corporation v. W.E. O'Neil Construction Co.*, 2016 IL App (1st) 151166, 68 N.E.3d 856, 409 Ill.Dec. 748 (1st Dist. 2016); *Lederer v. Exec. Constr., Inc.*, 18 N.E.3d 112; 385 Ill. Dec. 112 (1st Dist. 2014); *Mockbee v. Humphrey Manlift Co.*, 973 N.E.2d 376, 362 Ill. Dec. 276 (1st Dist. 2012); *Milwaukee Mut. Ins. Co. v. J.P. Larsen, Inc.*, 956 N.E.2d 524 (1st Dist. 2011); 353 Ill. Dec. 662 (2011); *Dowe v. Birmingham Steel Corp.*, 963 N.E.2d 344; 357 Ill. Dec. 391 (1st Dist. 2011); *Am. Econ. Ins. Co. v. DePaul Univ.*, 383 Ill.App.3d 172, 890 N.E.2d 582, 321 Ill.Dec. 860 (1st Dist. 2008); *Argonaut Ins. Co. v. Safway Steel Products, Inc.*, 355 Ill.App.3d 1, 822 N.E.2d 79, 290 Ill.Dec. 797, Ill.App. (1st Dist. 2004); *American Country Ins. Co. v. James McHugh Const. Co.*, 344 Ill.App.3d 960, 801 N.E.2d 1031, 280 Ill.Dec. 86 (1st

Dist. 2003); *Insura Property and Cas. Co. v. Steele*, 344 Ill.App.3d 466, 800 N.E.2d 91, 279 Ill.Dec. 249 (5th Dist. 2003); *Brock v. Anderson Road Associates*, 301 Ill.App.3d 168, 703 N.E.2d 568, 234 Ill.Dec. 707 (2nd Dist. 1998); *In re Marriage of Campbell*, 261 Ill.App.3d 483, 633 N.E.2d 797, 199 Ill.Dec. 1 (1st Dist. 1993); *In re Marriage of Kane*, 249 Ill.App.3d 412, 618 N.E.2d 977, 188 Ill.Dec. 407 (1st Dist. 1993); *Harris v. St. Paul Fire & Marine Ins. Co.*, 248 Ill.App.3d 52, 618 N.E.2d 330, 187 Ill.Dec. 739 (1st Dist. 1993); *Kim v. Evanston Hosp.*, 240 Ill.App.3d 881, 608 N.E.2d 371, 181 Ill.Dec. 298 (1st Dist. 1992); *Milz v. M.J. Meadows, Inc.*, 234 Ill.App.3d 281, 599 N.E.2d 1290, 175 Ill.Dec. 276 (1st Dist. 1992); *Ure v. Wangler Const. Co., Inc.*, 232 Ill.App.3d 492, 597 N.E.2d 759, 173 Ill.Dec. 785 (1st Dist. 1992); *Waste Management, Inc. v. International Surplus Lines Ins. Co.*, 231 Ill.App.3d 619, 596 N.E.2d 726, 173 Ill.Dec. 102 (1st Dist. 1992); *Ciolino v. Bernstein*, 231 Ill.App.3d 68, 596 N.E.2d 83, 172 Ill.Dec. 804 (1st Dist. 1992); *In re Marriage of Hartian*, 222 Ill.App.3d 566, 584 N.E.2d 245, 165 Ill.Dec. 66 (1st Dist. 1991); *Knaus Systems, Inc. v. General Cas. Reliance Ins. Co.*, 220 Ill.App.3d 793, 581 N.E.2d 184, 163 Ill.Dec. 233 (1st Dist. 1991); *JG Industries, Inc. v. National Union Fire Ins. Co. of Pittsburgh*, 218 Ill.App.3d 1061, 578 N.E.2d 1259, 161 Ill.Dec. 613 (1st Dist. 1991); *Moore v. One Stop Medical Center*, 218 Ill.App.3d 1011, 578 N.E.2d 1231, 161 Ill.Dec. 585 (1st Dist. 1991); *Waste Management, Inc. v. International Surplus Lines Ins. Co.*, 144 Ill.2d 178, 579 N.E.2d 322, 161 Ill.Dec. 774 (1st Dist. 1991); *In re Marriage of Hoppe*, 220 Ill.App.3d 271, 580 N.E.2d 1186, 162 Ill.Dec. 767 (1st Dist. 1991); *Pekin Ins. Co. v. U.S. Credit Funding, Ltd.* 212 Ill.App.3d 673, 571 N.E.2d 769, 156 Ill.Dec. 789 (1st Dist. 1991); *Martin v. Government Employees Ins. Co.*, 206 Ill.App.3d 1031, 565 N.E.2d 197, 151 Ill.Dec. 926 (1st Dist. 1990); *Yanan v. Ewing*, 205 Ill.App.3d 96, 562 N.E.2d 1243, 150 Ill.Dec. 440 (2nd Dist. 1990); *Waste Management, Inc. v. International Surplus Lines Ins. Co.*, 203 Ill.App.3d 172, 560 N.E.2d 1093, 148 Ill.Dec. 496 (1st Dist. 1990); *Harry W. Kuhn, Inc. v. State Farm Mut. Auto. Ins. Co.*, 201 Ill.App.3d 395, 559 N.E.2d 45, 147 Ill.Dec. 45 (1st Dist. 1990); *Krause v. Pekin Life Ins. Co.*, 194 Ill.App.3d 798, 551 N.E.2d 395, 141 Ill.Dec. 402 (1st Dist. 1990); *Wolf v. Meister-Neiberg, Inc.*, 194 Ill.App.3d 727, 551 N.E.2d 353, 141 Ill.Dec. 360 (1st Dist. 1990); *Hare v. Foster G. McGaw Hosp.*, 192 Ill.App.3d 1031, 549 N.E.2d 778, 140 Ill.Dec. 127 (1st Dist. 1989); *Behr v. Club Med, Inc.*, 190 Ill.App.3d 396, 546 N.E.2d 751, 137 Ill.Dec. 806 (1st Dist. 1989); *Smith v. Chicago Housing Authority*, 187 Ill.App.3d 798, 543 N.E.2d 852, 135 Ill.Dec. 284 (1st Dist. 1989); *Greil v. Travelodge Intern., Inc.*, 186 Ill.App.3d 1061, 541 N.E.2d 1288, 133 Ill.Dec. 850, 2 A.L.R.5th 1064 (1st Dist. 1989); *Radosta v. Devil's Head Ski Lodge*, 172 Ill.App.3d 289, 526 N.E.2d 561, 122 Ill.Dec. 302 (1st Dist. 1988); *National R.R. Passenger Corp. v. Crown-Trygg Corp.*, 170 Ill.App.3d 946, 524 N.E.2d 954, 120 Ill.Dec. 772 (1st Dist. 1988); *Swaw v. Klompien*, 168 Ill.App.3d 705, 522 N.E.2d 1267, 119 Ill.Dec. 408 (1st Dist. Ill.App. 1st Dist. 1988); *Arndt v. Resurrection Hosp.*, 163 Ill.App.3d 209, 517 N.E.2d 1, 115 Ill.Dec. 36 (1st Dist. 1987).

Substantive/Significant United States District Court Decisions: *James McHugh Construction Company v. Great American Insurance Company*, 2019 WL 2189220 (N.D. Ill. 2019); *James McHugh Construction Company v. International Fidelity Insurance Company*, 2018 WL 264195 (N.D. Ill. 2018); *Kvaerner North American Construction Inc. v. Certain Underwriters at Lloyds London*, 2017 WL 2821691 (N. D. W.Va. 2017); *James McHugh Construction Co., v. Travelers*

Property & Casualty Co. of America, 223 F. Supp.3d. 462 (D. Md. 2016); *Black & Veatch Corporation v. Aspen Insurance (UK) Ltd.*, 2016 WL 6804894 (D. Kan. 2016); *Central Contracting, Inc. v. Kenny Const. Co.*, 2015 WL 832267 (N.D. Ill. 2015); *Westfield Insurance Company v. National Decorating Service, Inc.*, 147 F.Supp.3d 708 (N.D. Ill. 2015); *Certain Underwriters at Lloyd's London v. VanDivier Management, Inc.*, 2012 WL 4358747 (S.D. Ind. 2012); *Redmond v. Sirius Intern. Ins. Corp*, 2012 WL 3240157 (E.D. Wis. 2012), *Wachter Electric Com. v. Electrical Systems, Inc.*, 2010 WL 5137361 (E.D. Ark. 2010); *Tonicstar Ltd. v. Lovegreen Turbine Servs.*, 2006 U.S. Dist. LEXIS 60750 (D. Minn. 2006); *Hanson Aggregates, Inc. v. Roberts & Schaefer Co.*, 2006 WL 2285575 (N.D. Tex. 2006); *Faur v. Sirius International Insurance Corporation, et al.*, 391 F. Supp. 2d 650 (N.D. Ill. 2005); *Johnson Matthey, Inc. v. Beltran Associates, Inc.*, 2005 WL 8176516 (D. Utah 2005); *Great Lakes Dredge & Dock Co. v. Commer. Union Assur. Co.*, Case No. 94 C 2579 (N.D. Il. 2002); 2002 U.S. Dist. LEXIS 18500; *The Bourbonnais Amtrak Litigation*. See, e.g., *GE Corp. v. Dowe*, 2001 U.S. Dist. LEXIS 9367 (N.D. Ill. 2001); *Roberts & Schaefer Co. v. Merit Contracting, Inc.*, 901 F.Supp. 1349 (N.D. Ill. 1995); *Roberts & Schaefer Company v. San-Con, Inc.*, 898 F.Supp. 356 (S.D. W.V. 1995); *Ranger Ins. Co. v. Safety-Kleen Corp.*, 814 F.Supp. 744 (N.D. Ill. 1993); *American Centennial Ins. Co. v. American Home Assur. Co.* 729 F.Supp. 1228 (N.D. Ill. 1990); *Peach Tree Bancard Corp. v. Peachtree Bancard Network, Inc.* 706 F.Supp. 639 (N.D. Ill. 1989).

Franco Moroney Buenik LLC

500 West Madison St.

Suite 2440

Chicago, Illinois 60661

(312) 466-7240

robert.franco@francomoroney.com