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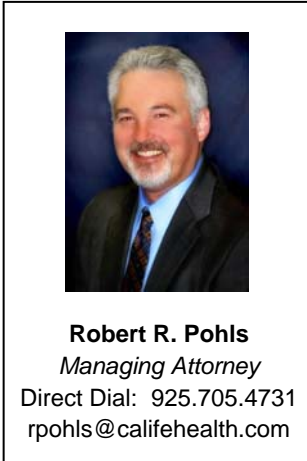
California Attorneys Defending Life, Health & Disability Insurers

Northern California

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Southern California

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Executive Summary

- Founder and Managing Attorney of a California law firm that *American Lawyer Media's* survey of law departments at the *Fortune 500* identified as a "Go-To Firm" for litigation
- Leader of a statewide trial practice that emphasizes representing life, health, disability and long term care insurance companies in bad faith, ERISA and other complex forms of litigation
- Former Chair of the Health & Disability Insurance Law Committee of the *American Bar Association's* Tort Trial and Insurance Practice Section
- *Martindale-Hubbell* peer review rating: AV - Preeminent (4.9 out of 5.0)

Professional Experience

Pohls & Associates
San Ramon, California / Los Angeles, California

Managing Attorney
(1999 – Present)

Principal of a 5-attorney firm that heavily emphasizes representing life, health, disability and long term care insurers in high stakes and complex lawsuits throughout California. Regularly support the claim and related operations of insurance clients with advice about agent relationships, sales activities, litigation avoidance, product development, risk management and regulatory matters. Significant trial experience in state and federal courts throughout California. Some litigation experience in other western states. Formally trained mediator with substantial experience in all forms of alternative dispute resolution.

Archer, McComas, et al.
Walnut Creek, California

Senior Litigation Associate
(1997 – 1999)

Partner-level responsibility for the defense of complex forms of business, commercial, construction defect, employment, insurance, personal injury and product liability litigation. Developed a robust practice involving the representation of life, health and disability insurers in bad faith, ERISA and other forms of complex litigation. Significant trial experience in state and federal courts throughout California. Some experience managing litigation in other jurisdictions. Substantial experience in all forms of alternative dispute resolution, including service as a court-appointed mediator.

Fleming & Associates
San Francisco, California

Senior Litigation Associate
(1996 – 1997)

Partner-level responsibility for representing life, health and disability insurers in bad faith, ERISA and other forms of complex litigation, counseling clients about regulatory matters, managing high-profile litigation and working with industry trade associations on lobbying efforts. Supervised the work of 6 attorneys administering a group legal services plan. Developed various policies and procedures for firm-wide use. Significant arbitration, trial and appellate experience in state and federal courts throughout California. Some litigation experience in other jurisdictions.

Bowles & Verna
Walnut Creek, California

Senior Litigation Associate
(1989 – 1996)

Practice initially involved representing *Fortune 500* companies in all forms of business, commercial, employment, personal injury, product liability, real estate and tort litigation. Practice later emphasized counseling financial services companies about litigation management, product development and regulatory issues, as well as representing life, health and disability insurers in bad faith, ERISA and other forms of complex litigation. Significant arbitration and trial experience in state and federal courts throughout California. Some appellate experience.

Ropers, Majeski, et al.
Redwood City, California

Litigation Associate
(1987 – 1989)

Litigation Associate in a 110-attorney civil trial practice law firm. Practice involved all forms of business, insurance coverage, personal injury and product liability litigation, but emphasized the defense of doctors, hospitals and nurses in medical malpractice actions. Significant law and motion experience. Some arbitration and trial experience.

Education

University of California, Davis, School of Law
Davis, California

Juris Doctor
(1987)

Bucknell University
Lewisburg, Pennsylvania

Bachelor of Arts – Political Science
(1984)

Bar Admissions

State Bar of California (1987); U.S. District Court, Northern District of California; U.S. District Court, Eastern District of California; U.S. District Court, Central District of California; U.S. District Court, Southern District of California; U.S. Court of Appeals, Ninth Circuit

ADR Service and Certifications

Early Neutral Evaluator, U.S. District Court, Northern District of California; Attorney Settlement Officer, U.S. District Court, Central District of California; Voluntary Dispute Resolution Neutral, U.S. District Court, Eastern District of California; Court-Appointed Mediator, Contra Costa County Superior Court

Professional Associations

American Bar Association

Health & Disability Insurance Law Committee, Former Chair
Life Insurance Law Committee, Member and Former Vice-Chair
Litigation Section, Member
Tort Trial and Insurance Practice Section, Member

Association of California Life & Health Insurance Companies, Associate Member

Association of Certified Fraud Examiners, Associate Member

Association of Life Insurance Counsel, Member

Contra Costa County Bar Association, Member

Defense Research Institute

Life, Health & Disability Law Committee, Member
Product Liability Litigation Committee, Member

International Claim Association

Health Insurance Committee, Member
Life Insurance Committee, Member

Los Angeles County Bar Association, Member

Northern California Life Insurance Association, Member

Articles and Speaking Engagements

Health Care Reform: What Does it Mean? (Eastern Claim Conference, 2011)
Health Care Reform (DRI Annual Meeting, Oct. 2010)
Rescission is Not a Four-Letter Word (ICA Annual Meeting, Oct. 2010)
LTC Overview: Where It's Been and Where It's Going (ICA Annual Meeting, Oct. 2010)
Proving Life Insurance Fraud (ICA Annual Meeting, Oct. 2010)
How to Effectively Manage Competing Death Benefit Claims (ICA News, Summer 2010)
An Introduction to Long Term Care Insurance (Western Claim Conference, 2009)
National Survey of Life Insurance Caselaw (ICA Annual Meeting, 2009)
Mediating Disputed Health Insurance Benefit Claims (DRI Conference on ERISA/Life, Health & Disability Insurance, 2009)
The Effective Use of the Advice of Counsel Defense (DRI, *The Voice*, 2008)
Litigating Subjective Disability Claims (ALI-ABA, *The Practical Litigator*, 2008)
The Anatomy of a Bad Faith Case (ABA Annual Meeting, 2007)
California Appellate Courts Continue Their Assault on Arbitration Provisions in Health Care Service Plans (DRI, *Life, Health & Disability News*, 2007)
Enforcing Exclusions and Limitations in Life, Health & Disability Insurance Policies (DRI Conference on ERISA/Life, Health & Disability Insurance, 2003)
Litigating Disability Insurance Claims Involving Post-Traumatic Stress Disorder (ACI 5th National Advanced Forum on Litigating Disability Claims, 2002)
California Appellate Court Refuses to Order Insurer to Identify Other Psychiatric DI Claimants Whose Claims Were Denied (DRI, *Life, Health & Disability News*, 2002)
Long Term Care Insurance: Selected Considerations for Insurers, Agents, Regulators and Litigators (ABA, *The Brief*, 2001)
Defense Strategies for Subjective Disability Claims (ACI 4th National Advanced Forum on Litigating Disability Claims, 2001)
California Supreme Court Rejects Comparative Bad Faith Defense (DRI, *Life, Health & Disability News*, 2000)
Common Law Right to Fair Procedure Can Limit Insurer's Right to Remove a Physician from its List of Preferred Providers (DRI, *Life, Health & Disability News*, 2000)
California Court Holds that Insurers Must Give Special Notice to Preserve the Contractual Limitations Defense (DRI, *Life, Health & Disability News*, 2000)
Hot Topics in Health & Disability Insurance (ABA Annual Meeting, 1999)
Surveillance Videos Can Be Withheld From Disclosures (ABA, *Life Insurance Law Committee Newsletter*, 1997)
Defense Strategies for Premium Offset Litigation (ABA, *Life Insurance Law Committee Newsletter*, 1997)
McCarran-Ferguson Should Preempt ADA Claims (DRI, *Life, Health & Disability News*, 1997)
Contributor, *Handbook on ERISA Litigation*, 2nd Ed. (Prentice Hall Law & Business)
Federal Law Could Void Proposed ADR Initiative (*The Recorder*, Sept. 20, 1996)
Developments in Managed Care (ALI-ABA, 1996)
Employee Benefits Litigation (ALI-ABA, 1996)
Americans with Disabilities Act (ALI-ABA, 1996)
Age Discrimination in Employment Act (ALI-ABA, 1996)
Reconciling Ninth Circuit ERISA Cases on Equitable Estoppel (DRI, *Life, Health & Disability News*, 1996)

Representative Cases

- 2007 Established that life insurer has no duty to investigate a possible death claim until a legal representative is appointed for the beneficiary-estate [*Estate of Grant v. State Farm Life Insurance Co.*, E.D. Cal. Case No. C05-02389-FCD (KJM)]
- 2007 Established limits on post-*Abatie* discovery in ERISA benefits litigation involving a structural conflict of interest [*Beckstrand v. Electronic Arts Group Long Term Disability Plan*, E.D. Cal. Case No. C05-00323-AWI (GSA)]
- 2006 Obtained the Eastern District of California's first dismissal of representative claims for unfair competition under Prop 64 [*Starr-Gordon v. Massachusetts Mutual Life Insurance Co.*, E.D. Cal. Case No. C03-0068-LKK (GGH)]

- 2004 Established that the “disclosed principal” rule required the dismissal of a policyholder’s claim of agent misconduct in connection with the sale of a life insurance policy [*Magsayo v. Primerica Life Insurance Co.*, San Joaquin County Superior Court Case No. CV017399]
- 2003 Established that California DOI cannot properly be joined to destroy diversity in disability income insurance claims litigation [*Borsuk v. Massachusetts Mutual Life Insurance Co.*, N.D. Cal. Case No. C03-0630-VRW]
- 2002 Successfully prosecuted California’s first-known litigated case involving the rescission of a long term care insurance policy [*GE Capital Assurance Co. v. Golden*, N.D. Cal. Case No. CV02-0282-RMW]
- 2001 Obtained an order compelling an insurance agent to arbitrate claims of alleged sexual harassment against an insurance broker who did not sign the agent’s arbitration agreement [*Miranda v. AFLAC*, San Francisco County Superior Court Case No. 306747]
- 1999 Successfully defended the first-known litigated case in California involving suitability and the sale of long term care insurance [*Yudnich v. The Harvest Life Insurance Co.*, Napa County Superior Court Case No. 26-02844]
- 1997 Expanded California’s market for long term care insurance by establishing California DOI’s authority to approve of tax-qualified long term care insurance policies [*Congress of California Seniors v. Quackenbush*, LA County Superior Court Case No. BC164481]
- 1997 Filed an *amicus curiae* brief in the California Supreme Court on behalf of a life and health insurance trade association regarding the “imposter defense” [*AMEX Life Assurance Co. v. Superior Court (Slome Capital)*, 14 Cal.4th 1231 (1997)]
- 1997 Established limits on the availability of injunctive relief in actions governed by the Federal Arbitration Act [*Davenport v. Blue Cross of California*, 52 Cal.App.4th 435 (1997)]
- 1996 Used the *Harris Trust* corrective legislation to obtain the nation’s first dismissal of fiduciary and co-fiduciary liability claims against an insurer holding ERISA plan assets in its general account [*Tool v. National Employee Benefit Services, Inc.*, 957 F.Supp. 1114 (N.D.Cal. 1996)]
- 1996 Established that the loss of a health care professional’s license to practice is a legal disability which does not qualify for benefits under a disability income insurance policy [*Damascus v. Provident Life & Accident Ins. Co.*, 933 F.Supp. 885 (N.D.Cal. 1996)]
- 1992 Established that a life insurance company has a private right of action for “twisting” under California Insurance Code Section 781 against agents who misrepresent facts to induce policy surrenders [*Kentucky Central Life Insurance Co. v. LeDuc*, 814 F.Supp. 832 (N.D.Cal. 1992)]
- 1992 In a disappearance case involving an accidental death policy, confirmed that the beneficiary bears the burden of proving the insured died as the result of an accident [*Johnson v. Minnesota Mutual Life Insurance Co.*, 799 F.Supp.75 (N.D.Cal. 1992)]
- 1992 Established that a change in premium is sufficient proof that a life insurance applicant’s smoking history was material [*Kentucky Central Life Ins. Co. v. Marin Bay Park Trust*, 958 F.2d 377 (9th Cir. 1992)]