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**EXPERIENCE SUMMARY**

Robert L. Brace ("Rusty") has been an attorney since 1985 and AV rated since 1993. He is the head of the firm's class action group and has had over 26 years of experience in complex commercial and insurance-related litigation. Rusty also works with and for Federal Receivers and bankruptcy Trustees. Class actions successfully handled by Rusty include fraudulent insurance schemes and, most recently, the failure of 1031 Exchange Accommodators. Rusty has been responsible for recovering over \$250 million in settlements for clients.

Rusty is a member of the International Association of Insurance Receivers (IAIR) and the International Association of Insurance Fraud Agencies (IAIFA). He was certified as an Accredited Insurance Receiver in December 2002 by IAIR, demonstrating special competence with legal matters arising in connection with insurance insolvencies.

**PROFESSIONAL MEMBERSHIPS**

Santa Barbara County Bar Association (former Officer and Director)  
California Bar Association  
The State Bar of California (Bar No. 122240)  
Committee on State Bar Approved Professional Liability Insurance (former member)  
International Association of Insurance Receivers (Accredited Insurance Receiver Legal)  
International Association of Insurance Fraud Agencies

**ADMITTED TO PRACTICE:**

All State Courts of California	(1985)
U.S. District Court, Southern District of California	(1993)
2 <sup>nd</sup> Circuit Court of Appeals	(1995)
U.S. District Court, Eastern District of California	(1996)
9 <sup>th</sup> Circuit Court of Appeals	(1996)
U.S. District Court, Northern District of California	(2002)
U.S. District Court, Central District of California	(2003)
11 <sup>th</sup> Circuit Court of Appeals	(2006)

**LEAD OR CO-LEAD COUNSEL IN THE FOLLOWING MULTI-DISTRICT LITIGATION CASES:**

MDL No. 902, *In re Consolidated Welfare Fund ERISA Litigation*, 856 F. Supp. 837 (S.D.N.Y.1994)

MDL No. 1878, *In re: Southwest Exchange Inc. Internal Revenue Service § 1031 Tax-Deferred Exchange Litigation*, United States District Court for the District of Nevada Case Number 2:07-CV-01394-RCJ-LRL.

MDL No. 2028, *In re: Edward H. Okun Internal Revenue Service § 1031 Tax Deferred Exchange Litigation*, United States District Court for the Northern District of California, Case Number 07-CV-2795-JW.

MDL No. 2054, *In re: LandAmerica 1031 Exchange Services, Inc. §1031 Tax Deferred Exchange Litigation*, United States District Court of South Carolina, Case Number 09-mn-2054-JFA.

**ADMITTED PRO HAC VICE TO PRACTICE IN THE FOLLOWING COURTS:**

U.S. District Court, District of New Mexico	(1998)
U.S. District Court, Northern District of Texas	(1999)
Circuit Court of Jackson County, Missouri	(2000)
U.S. District Court, Western District of Missouri	(2000)
U.S. District Court, Southern District of New York	(2000)
U.S. District Court, Northern District of Nevada	(2004)
U.S. District Court, Southern District of Florida	(2004)
U.S. District Court, District of Columbia	(2004)
District Court, Clark County, Nevada	(2007)
U.S. District Court, Southern District of Nevada	(2007)
U.S. Bankruptcy Court, Southern District of New York	(2008)
U.S. District Court, Eastern District of Virginia	(2009)

**PRACTICE AREAS**

Class Actions  
General Civil Litigation  
Insurance Coverage

**PUBLISHED OPINIONS**

Bailey, et al. v. Empire Blue Cross/Blue Shield, et al. (In re Consolidated Welfare Fund ERISA Litigation), 856 F. Supp. 837 (S.D.N.Y.1994)

Janice Lloyd, as Trustee and Liquidator of First Assurance v. Paine Webber, Inc., 1996 U.S. Dist. LEXIS 226 28 (S.D. Cal. 1996)

John C. Craft, Special Deputy Liquidator of Meadowlark Insurance Company v. Sunwest Bank of Albuquerque, N.A., n/k/a NationsBank, 84 F. Supp. 2d 1226 (D.N.M. 1999)

Janice Loyd as Trustee and Liquidator of First Assurance v. Aguilar & Sebastinelli, et al., 208 F.3d 755 (9<sup>th</sup> Cir. 2000)

General Insurance Company of America v. Stephen Rhoades, 196 F.R.D. 620 (D.N.M. 2000)

Black v. Chase Bank of Tex. Nat'l Ass'n., 2001 U.S. Dist. LEXIS 18134 (N.D. Tex. Nov. 6, 2001)

Craig v. Bank of N.Y., 24 Fed. Appx. 96, 2001 U.S. App. LEXIS 27400 (2d Cir. 2001)

Craig v. Bank of N.Y., 59 Fed. Appx. 388; 2003 U.S. App. LEXIS 3990 (2d Cir. 2003)

Carolina Cas. Ins. Co. v. McGhan, 572 F. Supp. 2d 1222; 2008 U.S. Dist. LEXIS 89589 (D. Nev. 2008)

## **PUBLISHED ARTICLES**

A Lawyer Should Be Liable For Failing To Prevent Known Insider Looting Of A Corporate Client, Mealey's Litigation Report: Insurance Insolvency, Volume 13, Issue #18, February 28, 2002, 13-18 Mealey's Litig. Rep. Ins. Insolv. 13 (2002)

Enforcement Of NAIC Trusts Can Prove To Be Very Difficult For Liquidators of Insolvent Insurers, Mealey's Litigation Report: Insurance Insolvency, Volume 14, Issue #7, September 12, 2002, 14-7 Mealey's Litig. Rep. Ins. Insolv. 11 (2002)

The Adverse Impact That Unnecessary Regulatory Allegations Have Had On E&O Coverage In The Employers Mutual, LLC Litigation, Mealey's Litigation Report: Insurance Insolvency, Volume 16, Issue #3, July 15, 2004, 16-3 Mealey's Litig. Rep. Ins. Insolv. 22 (2004)

An Update On Employers Mutual, LLC Litigation: Florida Federal Judge Finds Exclusions Were Not Triggered In Malpractice Action Against 400 Insurance Agents, Mealey's Litigation Report: Insurance Insolvency, Volume 17, Issue #11, March 2006, 17-11 Mealey's Litig. Rep. Ins. Insolv. 16 (2006)

## **FACULTY**

International Association of Insurance Receivers ("IAIR") Workshop 1999 in Kansas City, Missouri. Lectured on Standing of Court Appointed Liquidator.

International Association of Insurance Fraud Agencies ("IAIFA") meeting in June 2001 in Budapest, Hungary. Lectured on the Recovery of Assets to Pay Claims.

Federation of Regulatory Counsel meeting in December 2002 in San Diego, California. Lectured on Ethical Issues Created by Legal Representation of Troubled Insurer.

Santa Barbara Bar Association meeting in October 2002. Lectured on Lawyer Liability for Failing to Prevent Insider Looting of Corporate Client.

IAIFA meeting in April 2004 in London, England. Lectured on the Adverse Impact that Unnecessary Regulatory Allegations can have on E&O Coverage.

ASPPA, DOL Speaks: the 2005 Employee Benefits Conference in April 2005 in Washington, D.C. Lectured on fraudulent MEWAs.

American Bar Association, Tort Trial and Insurance Practice Section, in August 2005, Chicago convention of ABA. Lectured on the Anatomy of a Health Insurance Scam: Health Insurance Fraud Schemes and Their Impact on the Industry.

International Association of Insurance Receivers ("IAIR") Workshop 2006 in San Diego, California. Lectured on Issues In Collecting On Professional Liability Insurance.

## **REFERENCES**

The following references may be contacted regarding my work on ERISA, insurer fraud, insolvency, liquidations, insurance coverage and 1031 Exchange Accommodators.

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Fort Myers, FL 33901  
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Foley, Bezek, Behle & Curtis, LLP  
15 W. Carrillo Street  
Santa Barbara, CA 93101  
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Zelle McDonough & Cohen LLP  
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Boston, MA 02110  
(617) 742-6520

# The Judicial Panel On Multidistrict Litigation

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

DeWAYNE A. BAILEY, et al.,

Plaintiffs,

v.

EMPIRE BLUE CROSS/BLUE SHIELD,  
et al.,

Defendants.

MDL DOCKET NO. 902

93 Civ. 6179 (MP)

TRANSCRIPT OF JUDGE  
POLLACK'S COMMENTS  
REGARDING COUNSEL AND  
APPROVAL OF WAVE 1  
SETTLEMENTS

Judge: Milton Pollack

JUDGE POLLACK: "I think I have read enough and heard enough to satisfy me that these are salutary opportunities for the disabled and sick and otherwise unnoticed people to at least get a pittance of a recovery as the results of magnificent work on the part of counsel [Hollister & Brace and Cohelan & Khoury] and the supporting staff here. Indeed, I have seen no similar indication of a public service rendered by any group of lawyers in all the years that I have practiced law myself which is for 38 or the 27 years that I have been on the bench. And I commend the counsel and the supporting staffs to the highest degree. I have no doubt, I would unhesitatingly say, that these settlements are fair, reasonable and adequate and indeed manna from heaven for the people who will ultimately share the net results of the litigation. It is also very clear to me that the efforts of counsel and the supporting staff are such in this economic climate that in furnishing financial return to counsel and the supporting staff for the services to date, there should be no delay. And this effort should not be carried on without interim compensation of expenses and fees in respect of these particular settlements right now, payable as soon as the funds can be set up in the appropriate manner. So that can provide an incentive to do this great public service that counsel and the supporting staff have undertaken and have thus far performed in these proposed settlements."

DATE: May 16, 1994

/s/

Senior United States District Court Judge