

**Eric A. Haab****Partner**[ehaab@foley.com](mailto:ehaab@foley.com)

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Eric Haab is a dispute resolution attorney concentrating his practice in the areas of reinsurance, insurance, and insurance insolvency. For more than 30 years, Eric has represented ceding companies and reinsurers in the United States, United Kingdom, Europe, and Asia in the litigation and arbitration of complex reinsurance disputes. He is a partner in the firm's Insurance & Reinsurance Litigation Practice.

In addition to his property and casualty matters, since the early 1990s, Eric's practice has involved numerous life, accident, and health reinsurance disputes, providing Eric with an understanding of the cutting-edge business and legal issues facing life insurers and reinsurers that is rare in the life reinsurance sector. As a trusted advisor to some of the industry's leading companies, Eric frequently counsels clients with respect to untested and novel issues and provides advice regarding treaty revisions designed to avoid future problems.

Eric's recent life and health matters include counseling and numerous disputes regarding yearly renewable term (YRT) life reinsurance premium rate increases, life reinsurance administration and accounting issues, secondary guaranty riders, the proper calculation of reserves, alleged jumbo limit violations, the reinsurance of guaranteed living and death benefits associated with variable annuity benefits (GMxBs), "pre-need" life insurance policies, alleged misrepresentations in the pricing of life reinsurance treaties, life insurance underwriting disputes, medical stop-loss reinsurance, and various portfolios of personal accident reinsurance. Recent property-casualty cases have involved high-layer catastrophic worker's compensation coverage, fronting-related disputes, property-catastrophe reinsurance, Bermuda Form coverage issues, allocation disputes, and many cases involving significant asbestos liabilities.

Prior to joining Foley, Eric was a partner in the Chicago office of another firm. He was a founding member of that office and served as its managing partner for six years.

Eric Haab has been the lead trial counsel in dozens of major insurance and reinsurance trials or final evidentiary arbitration hearings. Eric excels in trying complex commercial disputes involving challenging

technical concepts before sophisticated panels of arbitrators who are often experts in the business and technical issues involved — and not necessarily lawyers. He has led Foley trial teams with respect to all of the high-value issues faced by insurers over the past decades, including asbestos and environmental liabilities, high layer workers' compensation losses, property catastrophe losses, and medical stop loss disputes. He has rare expertise in the arbitration of disputes involving the reinsurance of life insurance portfolios.

Notably, Eric was involved in the very first wave of industry arbitrations involving "YRT premium rate increases." In the past decade, Eric has been the lead trial counsel in more than ten final evidentiary arbitration hearings involving that issue, and he has prevailed in multiple cases with more than \$100 million at issue, including a key victory with more than \$800 million at stake. Beyond his well-rounded trial skills, he has decades of experience deposing and cross examining some of the leading actuaries in the U.S. Eric has learned what it takes to fearlessly examine actuaries on even the most technically complex actuarial concepts and to elicit the flaws in their analysis. Few lawyers can match his experience, which can be outcome determinative in many reinsurance disputes.

### **Representative Experience**

- Represented a leading life reinsurer regarding novel issues concerning adjustments to charges pertaining to the reinsurance of secondary guarantee benefits in life insurance policies.
- Represented a casualty insurer regarding a series of disputes arising out of divestitures of affiliated companies.
- Represented a personal lines property carrier in recovery under property catastrophe reinsurance contracts for ice dam losses. One of few arbitration awards regarding catastrophe treatment for this form of loss.
- Represented a leading life insurance carrier in an arbitration against a reinsurer involving yearly renewable term (YRT) life reinsurance agreements. Obtained favorable award from the arbitrators on contract language that had never been publicly construed.
- Represented a life insurance carrier involving untested contract language in yearly renewable term contracts, obtaining a favorable award valued at over US\$100m.
- Represented a major life reinsurer in obtaining an arbitration panel's approval of rate increases pursuant to a contract allowing new rates based on a change in anticipated mortality for the reinsured block of business. The case involved complex actuarial and life reinsurance pricing concepts.
- Represented a life retrocessionaire in a dispute regarding termination and recapture provisions covering a portfolio of guaranteed minimum death benefit annuity products.
- Represented one of the leading U.S. insurance companies in a reinsurance recovery action against a facultative reinsurer in the Southern District of New York. The case involved, among other issues, the interpretation of manuscript endorsements defining the limits and attachment points of occurrence and aggregate reinsurance covers for underlying policies with unusual retroactive premium provisions.

- Represented a life reinsurer in an arbitration brought by its ceding company seeking indemnity for substantial sums paid to commute workers compensation carve-out covers written in the 1990s. The case involved the interpretation of unique reinsurance language concerning the cut-off of the reinsurer's liabilities after a certain duration. Following a hearing on the merits, the arbitration panel issued an award in our client's favor, which terminated the client's current and future liability under the treaties at issue.
- Represented a reinsurer in arbitration regarding reinsurance of many years of high layer, catastrophic workers compensation risks. The case involved not only complex valuation issues, but also the interpretation of common mandatory commutation clauses.
- Represented one of the leading insurance groups in the United States in a significant arbitration against a reinsurer concerning the client's claims for indemnification for underlying asbestos and silica liabilities. The case was bifurcated and involved two separate evidentiary hearings concerning complex coverage, expense and damages issues, as well as captive and self-insurance issues. Following each hearing, the panel issued highly favorable awards that resulted in reinsurance recoveries in excess of US\$125m. This matter was handled prior to joining Foley.
- Represented a major life reinsurer in an arbitration against its ceding company and in related court proceedings against the ceding company's officers and affiliates. The matter involved complex issues of misrepresentation as well as the proper interpretation of essential provisions in life reinsurance agreements. The case also required a detailed understanding of "pre-need" life insurance policies and their use in the funeral expenses industry. Following a two-week evidentiary hearing, the ceding company was placed into liquidation. The matter subsequently has involved novel life and health insurance insolvency issues.
- Represented a prominent national property and casualty (P&C) carrier in litigation in the Supreme Court of the State of New York against its facultative reinsurer. Our client entered into a US\$15m settlement with its policyholder to settle its asbestos liabilities under a series of policies issued in the late 1970s and early 1980s. When our client sought to recover a portion of the settlement from its facultative reinsurer, the reinsurer denied based on unusual late notice provisions and an assertion that the allocation of the settlement was "manifestly unreasonable." Following cross motions for summary judgment, in April 2011, Judge Richard B. Lowe III of the Supreme Court of New York County granted our client summary judgment on all claims. The victory was significant in that reinsurers often can defeat summary judgment on the basis of factual issues relating to the reasonableness of the allocation presented to the reinsurer. The judgment in the case (entered in June 2011) included a substantial recovery of pre-judgment interest.
- Represented reinsurers in challenges to the liquidation plans presented by receivers in the Home and Integrity insurance insolvencies. The cases involved issues concerning the proper priority of claims in liquidation, estimation of contingent claims, rights to interpose defenses and related issues. This matter was handled prior to joining Foley.
- Represented a life reinsurance company with respect to the impact of mortality studies that were withheld during the negotiation of reinsurance of a US\$5bn closed block of universal life insurance

policies. The client obtained rescission of the reinsurance agreement. This matter was handled prior to joining Foley.

### **Awards and Recognition**

- Recognized as one of America's Leading Lawyers for Business by *Chambers USA* (2003 – present)
- Recognized in the International *Who's Who of Insurance and Reinsurance Lawyers* (2003-present)
- Recognized in *Who's Who Legal Illinois* (2006-present)
- Selected for inclusion in *The Best Lawyers in America*® since 2017 in the field of Insurance Law
- Selected for inclusion in the *Illinois Super Lawyers*® lists (2005-2010)
- Recognized by *The Legal 500* for his work in insurance: advice to insurers\* (2012-2016)

### **Presentations and Publications**

- Co-author, "Arbitrator Disclosure and Arbitrator Bias," *ARIAS-U.S. Quarterly*, June 2011
- Contributing author, "Transatlantic Commercial Litigation and Arbitration," John Fellas, ed. Oceana Publications Inc., 2004
- Co-author, "The Rising Impact of Statutes of Limitations," *Reactions*, January 1997, co-author with Neal Moglin
- Co-author, "Court Decisions Stress Broad Loss Distribution," *Reactions*, January 1996
- Co-author, "Going on the Record," *Reactions*, October 1993
- Co-author, "The Loss of Faith," *Reactions*, September 1993
- Co-author, "A Devil of a Job," *Reactions*, October 1992

### **Sectors**

- [Health Care & Life Sciences](#)
- [Payor Provider Convergence](#)
- [Racial Justice & Equity](#)

### **Practice Areas**

- [Insolvency/Guaranty Fund](#)
- [Insurance & Reinsurance Litigation](#)
- [Litigation](#)
- [Mergers, Acquisitions & Complex Reinsurance Transactions](#)
- [Regulatory Compliance](#)

### **Education**

- Harvard Law School (J.D., 1989)
- The University of Michigan (A.B., with high distinction, 1986)

### **Admissions**

- Illinois

\*The Illinois Supreme Court does not recognize certifications of specialties in the practice of law and no award or recognition is a requirement to practice law in Illinois.