



## Todd C. Hayes

### Areas of Practice

Insurance Coverage Law  
Construction Defect Law  
Appellate Law  
Condominium Law

### Education

University of California, Hastings  
College of the Law, J.D., 1996  
University of Washington, B.A. in  
Business Administration, 1990

### Admitted to Practice

Washington State & Federal  
Courts

### Activities & Awards

"2010 Washington Super  
Lawyers" – Washington Law &  
Politics  
"2009 Washington Super  
Lawyers" – Washington Law &  
Politics  
"2008 Who's Who in Appellate  
Law" – Washington Law & Politics  
"2008 Washington Super  
Lawyers" – Washington Law &  
Politics  
"2007 Washington Super  
Lawyers" – Washington Law &  
Politics  
"2005 Washington Super  
Lawyers" – Washington Law &  
Politics  
"2005 Rising Stars" – Washington  
Law & Politics  
"2004 Rising Stars" – Washington  
Law & Politics  
Editorial Board Member,  
Insurance Litigation Reporter  
Member, Washington State Bar  
Association

Todd Hayes represents contractors, property owners, developers, and business owners, with an emphasis on insurance coverage and construction defect litigation. He has handled cases regarding all categories of insurance, including directors & officers, commercial general liability ("CGL"), builder's risk, professional liability, and property insurance. Todd has secured millions of dollars in settlements, and tried numerous cases to both juries and the court. He recently obtained a six-figure award under the Consumer Protection Act – believed to be the largest CPA award in Washington against a single insurer.

Todd frequently lectures on insurance coverage and construction defect law, and has repeatedly been named to the "Super Lawyers" list in Washington Law & Politics Magazine. Listed among the "Who's Who in Washington Appellate Law," he has argued before the Washington Court of Appeals, the Washington Supreme Court, and the Ninth Circuit Court of Appeals. His appellate decisions include Panorama Village Condominium Owners Ass'n Board of Directors v. Allstate Ins. Co., 144 Wn.2d 130, 26 P.3d (2001), J.D. Tan, L.L.C. v. Summers, 107 Wn. App. 266, 26 P.3d 1006 (2001), and DeWitt Constr. Inc. v. Charter Oak Fire Ins. Co., 307 F.3d 1127 (9th Cir. 2002).

Todd earned his B.A. degree in business administration from the University of Washington and his J.D. degree from the University of California, Hastings College of the Law. Following law school, Todd was a law clerk to The Honorable Gerry L. Alexander, Chief Justice of the Washington Supreme Court.

### Representative Cases

- Successfully tried claim against liability insurer, establishing coverage under contractor's CGL policy for construction defects and resulting property damage.
- Seven-figure settlement in environmental coverage claim under policy characterized by insurer as containing "absolute pollution exclusion."
- Obtained ruling establishing coverage for "water damage" under property insurance policies sold to condominium association during late 1980s and early 1990s.
- Secured key summary judgment ruling for apartment owner, establishing coverage as assignee under property insurance policy sold to building's former owner.
- Represented commercial property owner in successful appeal establishing insurance coverage for "collapse" caused by "faulty construction."
- Secured over \$2.4 million in settlements on behalf of former directors and officers in federal lawsuit and related arbitration – issues included scope of "insured v. insured" and "illegal benefits" exclusions and liability insurer's ability to segregate settlement between covered and allegedly uncovered claims.



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- In Ninth Circuit appeal, established liability insurance coverage for drilling subcontractor arising out of lawsuit over damage to work of other subcontractors and resulting delay damages incurred by general contractor.
- Successfully tried construction defect and insurance bad faith case on behalf of condominium owners association, resulting in \$4 million-plus damage award and \$260,000 award under Washington "Consumer Protection Act."
- Successfully represented residential homeowner in construction defect lawsuit against builder, design professional, property insurer, and liability insurer (as assignee of contractor), securing over \$2 million in settlements after litigating issues regarding effect of bankruptcy stay and scope of general liability insurer's coverage for "continuing loss."
- Represented former judgment debtor in successful appeal regarding ability of judgment creditor's assignee to obtain extension of judgment.
- Secured coverage for directors and officers of charitable organization under directors & officers non-profit liability insurance policy; issues included timing of "claim" and scope of multiple exclusions.
- Obtained multiple settlements totaling mid-seven figures in representation of property owners against developer and as assignee of contractor.
- Represented general contractor in dispute against "Insurance Guaranty Association," including prosecution of successful summary judgment motion regarding "exhaustion" of other coverage.
- Successfully represented condominium homeowners association in lawsuit against first-party property insurer over coverage for "collapse" caused by "hidden decay." Issues included scope of "known loss" rule and ability of policyholder to recover non-attorney's fee damages in suit against insurer.
- Successfully tried case on behalf of lender seeking "equitable lien" against property subject to unenforceable deed of trust.

#### **Presentations**

- "The Liability of the Corporate Executive: Risk Management Strategies and Solutions"; Seattle, WA, May 2009
- "Insurance in the Construction Industry"; Seattle, WA, October 2008
- "Condominiums, Townhouses, and Apartments: Insurance Products and Issues"; Seattle, WA, August 2008
- "Condominiums: Opportunities and Pitfalls"; June 2007
- "Insurance Coverage Law in Washington"; January 2007
- "Mealey's Insurance Coverage Disputes Concerning Construction Defects"; Las Vegas, NV, October 2006



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- "Insurance Bad Faith Claims in Washington", July 2006
- "Bad Faith in Construction Defect Litigation", Seattle, WA, July 2006
- "Alternative Dispute Resolution in Construction Defect Litigation", June 2006
- "Condominiums: Opportunities and Pitfalls", June 2006
- "Associated General Contractors' Moisture and Construction – Legal and Insurance Issues", Seattle, WA, April 2006
- "Insurance Coverage Law in Washington", June 2005
- "Fundamentals of Liability Insurance", Seattle, WA, November 2003
- "Associated General Contractors' Construction Insurance Boot Camp", May 2003