








# Seth Row Partner

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**“I take a practical, solution-driven approach to business disputes, with a focus on our client’s objectives and business goals, both short- and long-term. Insurance companies are tough adversaries, and in those cases, it is particularly critical to listen to and understand our client’s needs. Despite my record of victories in the courts, I understand that not every dispute requires win-at-all-costs litigation to be a success, so I work with each client to understand and meet their goals.”**

Seth Row is co-chair of the firm’s insurance recovery practice team and focuses his litigation practice primarily on insurance coverage disputes—exclusively on the policyholder side. In his more than 20 years of practice, he has assisted clients in recovering millions of dollars under nearly every kind of insurance policy, including property, business income, Directors & Officers, representations & warranties, marine, and cyber-risk policies. Seth has litigated several issues of first impression in Oregon, including the duty to defend EPA enforcement actions under long-tail liability policies, coverage for intellectual property and timber trespass disputes, and recovery of attorney fees.

Seth also has considerable experience in a broad range of business litigation, including transaction-related breach of contract claims and commercial torts. His clients range from banks, manufacturers, publicly traded entities, and technology startups to agriculturalists, non-profits, colleges, and universities.

A frequent speaker, advisor, and author on insurance law, Seth is also the editor of Miller Nash’s insurance-coverage blog, The Northwest Policyholder.

## Professional Activities

- Multnomah Bar Association
  - board of directors, member
  - Equity, Diversity, and Inclusion Committee, member, 2016-2018
  - CLE Committee, member; past-chair, 2012-2016

## Education

J.D., Georgetown University Law Center, *cum laude*, 1998

B.A., Yale University, 1995

## Bar Admissions

Oregon, 2002

Washington, 2002

## Court Admissions

U.S. Court of Appeals for the Ninth Circuit, 2012

U.S. Bankruptcy Court, District of Oregon, 2008

U.S. District Court, Western District of Washington, 2006

U.S. District Court, Eastern District of Washington, 2006

Oregon Supreme Court, 2002

Washington Supreme Court, 2002

U.S. District Court, District of Oregon, 2002

- American Bar Association
  - Section of Litigation, Division II Co-Director
  - Section of Litigation, Content Management, committee member, 2012-2015; co-chair, 2015-2018
  - Section of Litigation, Insurance Coverage Litigation Committee, social media co-chair, 2016-2018
  - Section of Litigation, Pretrial Practice & Discovery Committee, editor, 2009-2012
- Oregon State Bar
- Washington State Bar Association
- Federal Bar Association, board of directors, 2004–2009

## Representative Experience

### Insurance Recovery Litigation

- Represented manufacturer in obtaining coverage for advertising injury claims, resulting in advantageous settlement after successful appeal to the Ninth Circuit.
- Achieved positive outcome for our client with a successful suit against property insurer over coverage for damage to safety equipment caused by fire at agricultural products warehouse.
- Represented family-owned machinery company, at trial and on appeal, over long-tail coverage for environmental claims at Portland Harbor Superfund site. This resulted in pro-policyholder decision on multiple issues of first impression regarding duty to defend EPA information requests and “PRP” letters, and constitutionality of Oregon statutes.
- Successfully appealed trial court rulings on issues of first impression in Oregon involving coverage for timber trespass claims asserted against logging company, resulting in complete victory for client, including award of attorney fees.

### Business Disputes

- Represented buyer of hospitality businesses over breaches of representations and warranties in sales agreement.
- Following dispositive motions practice in Washington state court, achieved a favorable settlement in a negligence suit against an accounting firm over failure to maintain an insurance policy.
- Represented a technology start-up at trial in dispute with government contractor, resulting in complete jury verdict and award of fees.
- Achieved dismissal from protracted personal injury litigation for subcontractor, based on indemnity clauses in marine contract.

## Publications

Seth is a prolific writer on various topics. Following is a listing of publications since 2015. A complete list is available upon request.

- “Foreign Arbitration Clauses in Insurance Policies: Oregon Federal Court Enforces Clause—A Cautionary Tale for Domestic Businesses,” Miller Nash, *The Northwest Policyholder*, coauthor (June 2021)
- “Are Policyholder Wins + New Closure Orders “Game Changers” for NW Business Income Insurance Claims?” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Dec. 2020)
- “Business Insurance: From COVID-19 to Employment Claims, Here’s What Businesses Need to Know,” *Oregon Business* magazine, coauthor (Sept. 2020)
- “Miller Nash Submits Amicus Brief on Business Interruption Coverage,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Jul. 2020)
- “Reopening Heritage Organizations: Document, Document, Document,” *Oregon Heritage*, quoted in article (June 2020)

- “On Business Interruption Insurance, the Courts Will Decide,” *Portland Business Journal* (June 2020)
- “Vandalism or Looting Impacted Your Business? Insurance Coverage & What to Do Now,” Miller Nash Graham & Dunn, *The Northwest Policyholder*, coauthor (June 2020)
- “Insurance Law in Oregon 2020 Edition,” Oregon State Bar BarBooks™, Editorial Review Board (May 2020)
- “How Business Insurance Could Save Your Restaurant from COVID-19,” *Modern Restaurant Management* magazine (Apr. 2020)
- “Protecting Your Business’s Data, and Cyber Insurance, Is More Important Than Ever ,” Miller Nash Graham & Dunn, *The Northwest Policyholder*, co-author (Apr. 2020)
- “COVID-19: Cannabis Industry Resources,” Miller Nash Graham & Dunn, co-author (Mar. 2020)
- “Five Things To Do Now to Protect Your Business Interruption Insurance Claim,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Mar. 2020)
- “Northwest Data Breach Laws Are Changing—Is Your Cyber Insurance Keeping Up?” Miller Nash Graham & Dunn, *The Northwest Policyholder*, coauthor (Feb. 2020)
- “Thought Leader Forum: Cybersecurity Threats and Strategies,” *Portland Business Journal* (Jan. 2020)
- “Oregon Court: Common Commercial Property Insurance Suit-Limitation Clause is Ambiguous,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Jan. 2020)
- “Chapter 5: Vehicles Owned by Business Entities,” Oregon State Bar, *Oregon Automobile Law Compilation*, coauthor (Dec. 2019)
- “Understanding Insurance Terms in Construction Contracts,” National Association of Minority Contractors—Oregon, *NAMC-OR Newsletter*, coauthor (Fall 2019)
- “Insurance Policy Interpretation in Oregon—Lessons From New Cases,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Jun. 2019)
- “Insurance Coverage for Trade Secrets Claims,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Oct. 2018)
- “Chapter 48: Business Risk and Insurance Coverage,” Oregon State Bar, *Advising Oregon Business*, coauthor (Sept. 2018)
- “Oregon Court: “Sudden & Accidental” Exception to Pollution Exclusion Judged from Policyholder’s Perspective,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (July 2018)
- “Insurance Coverage in the Cannabis Industry: An Evolving Picture,” Miller Nash Graham & Dunn (May 2018)
- “Will Your Cyber Insurance Cover GDPR Fines & Penalties?” Miller Nash Graham & Dunn, *The Northwest Policyholder* (May 2018)
- “Common Gaps in Coverage for Data Security Incidents,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Apr. 2018)
- “Considering Employment Practices Liability Insurance? Some Things to Consider,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Mar. 2018)
- “In-House Counsel: Take Care in Contracting for Additional Insured Coverage from Foreign Suppliers,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Jan. 2018)
- “Lessons in Contracting for Additional Insured Status from New Oregon Case,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Dec. 2017)
- ““Contractors Special Conditions’ Endorsement Sets Traps for Policyholders and Defense Counsel,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Nov. 2017)
- “Miller Nash Graham & Dunn Represents United Policyholders on Pollution Exclusion in Ninth Circuit,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Nov. 2017)
- “Insurance Coverage Can Help Businesses Impacted by Wildfires or Hurricanes,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Sept. 2017)

- “Considering Cyber-Insurance After “WannaCry”? Here Are Things to Consider,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (May 2017)
- “In Extraordinary Ruling, Washington Supreme Court Applies “Efficient Proximate Cause” Rule to Liability Coverage Dispute,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (May 2017)
- “Washington Federal Court Confirms That EPA General Notice Letters Trigger the Duty to Defend,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Feb. 2017)
- “Montana: Insurer Breached Duty to Defend Even if Policyholder Was Defended by Another Insurer,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Dec. 2016)
- “Additional Insured Promises Mean Companies May Pay Twice for Employee Injuries,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Nov. 2016)
- “Oregon Employer Liability Ruling Highlights Importance of Additional Insured Status,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Oct. 2016)
- “New Ruling May Require Tailoring Cyber-Ransom Coverage,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (July 2016)
- “Three Takeaways for NW Companies from Recent Cyber-Coverage Events,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (June 2016)
- “In Washington, Coverage for Sole Proprietorship Must Include Broad Definition of “Insured,”” Miller Nash Graham & Dunn, *The Northwest Policyholder* (May 2016)
- “From the UP Blog: Portland Harbor Superfund Litigation Has “Super” Implications For Policyholders,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (May 2016)
- “New Law in Oregon Means Policyholders Should Now Report Bad Behavior to Insurance Commissioner,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Mar. 2016)
- “Why a Decision on the Construction Statute of Repose Matters for Coverage in Oregon,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Feb. 2016)
- “The Other Shoe Just Dropped: Cyber Insurer Sues in Oregon to Avoid First Party Benefits for Malware Event,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Jan. 2016)
- “Insurer Sues to Terminate Defense of Premera Cyber Breach,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Dec. 2015)
- “Oregon Supreme Court Overrules 40-Year Precedent on Covenant Judgments,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Nov. 2015)
- “Confluence of ‘Cyber’ Events Has Directors & Officers Concerned About Coverage,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Sept. 2015)
- “New Oregon Decision Impacts Umbrella Coverage and Additional Insured Status,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Sept. 2015)
- “Top Five Cyber Coverage Considerations for Northwest Businesses,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Sept. 2015)
- “Oregon Court Rejects Insurer’s ‘Trained Monkey’ Defense,” Miller Nash Graham & Dunn, *The Northwest Policyholder* (Aug. 2015)

## Presentations

Seth is a frequent speaker on various topics. Following is a listing of presentations since 2015. A complete list is available upon request.

- “Choice of Law—‘The Rabbit Hole,’” The Seminar Group, Northwest Insurance Law Seminar (Oct. 2021)
- “Business Interruption Issues Facing Health Care,” Oregon Medical Association, webinar (Mar. 2021)

- “COVID-19 Business Interruption Insurance Litigation,” Multnomah Bar Association, CLE webinar, panelist (Jan. 2021)
- “Representation and Warranty Insurance and Business Interruption Insurance,” Oregon State Bar Association Business Law Section, Current Developments in Business Law webinar (Nov. 2020)
- “Extra-Contractual Issues and Exposures,” The Seminar Group, Northwest Insurance Law seminar (Oct. 2020)
- “Coronavirus Insurance Litigation,” The Seminar Group, Insurance Considerations Relative to COVID-19, webcast (Sept. 2020)
- “Reopening Guidance for Museums, Zoos, and Gardens,” Oregon Cultural Advocacy Coalition, webinar, panelist (June 2020)
- “COVID-19 @ Work: Straight Talk Series - Session II: Business Interruption Insurance Coverage,” Employment Law Alliance, webinar (May 2020)
- “Cybersecurity Risk & Insurance Coverage,” Washington Department of Financial Institutions, FDIC Bank Executive Forum, panelist (Mar. 2020)
- “Coronavirus in Construction Webinar: Key Issues and Best Practices for Projects and Personnel,” Miller Nash Graham & Dunn, webinar (Mar. 2020)
- “The Vaping Injury Crisis: Products Liability & Insurance Coverage Issues for Nicotine and Cannabis Industries,” American Bar Association, Section of Litigation CLE (Jan. 2020)
- “The Executive Director’s Risk Management Toolbox,” The Nonprofit Association of Oregon, Nonprofit Leaders Network Session (Oct. 2019)
- “Insurance for Real Estate Lawyers,” Oregon State Bar Real Estate & Land Use Section, CLE presentation (June 2019)
- “A Common Interest in Cooperation: How to Protect Privilege and Policy Benefits When Reporting to Liability Insurers,” American Bar Association, 2018 Insurance Coverage Litigation Committee CLE Seminar (Mar. 2018)
- “Using Drones: What Subcontractors Need to Know,” American Subcontractors Association (Oct. 2017)
- “Cyber Risk for Corporate Counsel and Risk Managers—What You and Your Company Need to Know,” Vestas Wind Energy, CLE presentation (June 2017)
- “Navigating Cyber Risk,” Miller Nash Graham & Dunn (June 2017)
- “Co-Insurance and Other Traps in First-Party Coverage,” Risk Management Society, organizational meeting (Nov. 2016)
- “Contractors Insurance and Liability,” Southwest Washington Contractors Association, Business Seminar (Oct. 2016)
- “Insurance Coverage for Small Businesses,” Multnomah Bar Association, CLE webinar (Oct. 2016)
- “A Closer Look at Insurance Provisions in Business and Commercial Agreements,” Oregon State Bar, CLE Panelist (June 2016)
- “Cyber Security and Cyber Insurance Panel,” Miller Nash Graham & Dunn, 21st Annual CEO Brainstorming Meeting, panelist (June 2016)
- “Insurance Coverage—Strategies to Protect Your Business,” Miller Nash Graham & Dunn, Vancouver Breakfast Roundtable (May 2016)
- “Effective Representation—Privacy and Data Security for Counsel,” Willamette University College of Law, one-day symposium (Feb. 2016)
- “Insurance Coverage—Strategies to Protect Your Business,” Miller Nash Graham & Dunn, Breakfast Roundtable series (Feb. 2016)
- “Environmental Insurance,” The Seminar Group, Comprehensive Insurance Law Conference (Oct. 2015)
- “Cyber Coverage,” in-house continuing education course (July 2015)
- “Cyber Coverage,” in-house continuing education course (June 2015)
- “Presenting Expert Witnesses at Trial,” Multnomah Bar Association, moderator (Mar. 2015)

## Recognition & Honors

- Selected for inclusion in *The Best Lawyers in America*® in Insurance Law and Litigation–Insurance, 2020-present
- Selected for inclusion as an Oregon Super Lawyer, 2015-present
  - Selected to Rising Stars, 2009-2013