

## Rafael Vergara

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Rafael's knowledge in trial court and appellate court matters benefits clients from the commencement of an action through an appeal.

### OVERVIEW

Rafael Vergara's litigation practice focuses on defending insurance companies and other entities in lawsuits. He handles commercial disputes, insurance coverage issues, life insurance matters, and representation in incidents at assisted living facilities and nursing homes. He also has experience in litigating cases involving individual disability insurance, ERISA, products liability, asbestos, and insurance broker liability. From the commencement of an action through an appeal, Rafael's knowledge in trial court and appellate court matters benefits clients.

While in law school, Rafael served as a Managing Editor of the *Rutgers Law Review* and as a Legal Research and Writing Teaching Associate. After law school, and prior to embarking on a career in private practice, he was a judicial law clerk in the Superior Court of New Jersey, Law Division, Special Civil Part.

### REPRESENTATIVE MATTERS

White and Williams Secures Reversal of Critical Ruling Involving Confidential and Proprietary Business Information

7.7.16

*Schumacher v. Sunrise Senior Living Mgmt.*, 2021 U.S. Dist. LEXIS 5166 (E.D.N.Y. Jan. 11, 2021); involving federal jurisdiction issue

*Renk v. Renk*, 188 A.D.3d 502 (N.Y. App. Div. 1st Dept. 2020); commercial litigation dispute involving a family business

*McIntyre v. Bradford White Corp.*, 2020 NY Slip Op 51034(U), 68 Misc. 3d 1220 (A), 130 N.Y.S.3d 632 (Sup. Ct. 2020); products liability issue regarding water heater

### PRACTICES

Appellate  
Commercial Litigation  
Financial Lines  
First-Party Property  
Healthcare  
Insurance Coverage and Bad Faith  
Life, Health, Disability and ERISA  
Litigation

### BAR AND COURT ADMISSIONS

New Jersey  
New York  
U.S. Court of Appeals the Second Circuit  
U.S. Court of Appeals for the Third Circuit  
U.S. District Court for the District of New Jersey  
U.S. District Court for the Eastern District of New York  
U.S. District Court for the Northern District of New York  
U.S. District Court for the Southern District of New York

### EDUCATION

Rutgers University School of Law, JD, 1999  
Kean College of New Jersey, BA, 1996

*Sternberg v. Paul Revere Life Ins. Co.*, 2020 U.S. Dist. LEXIS 1718 (S.D.N.Y. Jan. 3, 2020); disability insurance policy issue

*Pub. Serv. Mut. Ins. Co. v. Nova Cas. Co.*, 2019 NY Slip Op 08270, ¶ 1, 177 A.D.3d 472, 472, 114 N.Y.S.3d 47, 48 (N.Y. App. Div. 1st Dept. 2019); insurance coverage declaratory judgment action stemming from personal injury action

*Dorville v. Royal Farms, Inc.*, 169 A.D.3d 863, 92 N.Y.S.3d 676 (N.Y. App. Div. 2nd Dept. 2019); Labor Law § 240

*Khazin v. Geowalth Mgmt, LLC*, Civil Action No. 17-11487 (SDW)(CLW), 2018 U.S. Dist. LEXIS 96932 (D.N.J. June 7, 2018); involving a motion to certify an order for an interlocutory appeal

*Estate of Litwin v. Emeritus Corp.*, No. 14-5847 (NLH/KMW), 2017 U.S. Dist. LEXIS 107696 (D.N.J. July 12, 2017); represented defendants who were granted partial summary judgment

*Frimpong v. Sunrise Senior Living, Inc.*, Civil Action No. 16-3917-BRM-LHG, 2016 U.S. Dist. LEXIS 146711 (D.N.J. Oct. 24, 2016); involving a motion to remand a case removed to federal court

*Skelcy v. UnitedHealth Grp., Inc.*, 620 F. App'x 136 (3d Cir. 2015); represented defendants-appellees who prevailed in position that they did not owe a duty of care like that which might be found in a physician-patient relationship

Successfully argued to the New York Supreme Court, Appellate Division – First Department that a reinsurer's statute of limitations defense should be decided by arbitration panel rather than the court

*QBE Ins. Corp. v. Adjo Contracting Corp.*, 997 N.Y.S.2d 425 (2014); argued appeal pertaining to a commercial general liability insurer's duty to defend under New York law

*Andreyko v. Sunrise Senior Living, Inc.*, 993 F.Supp.2d 475 (D.N.J. 2014); first published case in New Jersey recognizing that unlike nursing home residents who may bring lawsuits seeking compensatory and punitive damages, plus attorney's fees, for rights violations under New Jersey's Nursing Home Responsibilities & Rights of Residents Act, specifically N.J.S.A. § 30:13-8, assisted living residents were held not to have the same statutory remedy available to them

*Quiles v. Bradford-White Corporation*, Slip Copy, 2012 WL 1355262 (N.D.N.Y.); represented water heater manufacturer in products liability case in which design defect claim was dismissed

*Whippoorwill Hills Homeowners Ass'n, Inc. v. Toll at Whippoorwill, L.P.*, 91 A.D.3d 864, 937 N.Y.S.2d 595 (2d Dept. 2012)

*Arias v. PM Partners*, 90 A.D.3d 490, 934 N.Y.S.2d 160 (1st Dept. 2011); represented bank in personal injury action involving fall on sidewalk

*Utak v. Commerce Bank Inc.*, 930 N.Y.S.2d 575 (1st Dept. 2011); successfully argued appeal resulting in the dismissal of a banking client named as a defendant in a false arrest and false imprisonment case

*Flangos v. Flangos*, 82 A.D.3d 1037, 919 N.Y.S.2d 181 (2d Dept. 2011); successfully argued appeal on behalf of an insurer, which resulted in the vacating of a judgment insofar as it directed the insurer to make certain payments

*Keir v. Unumprovident Corp.*, 2010 WL 3566878 (S.D.N.Y. Sept. 14, 2010)

*Carl v. Cohen*, 55 A.D.3d 478, 868 N.Y.S.2d 7 (1st Dept. 2008)

*Them-Tuck Chung v. Pinto*, 26 A.D.3d 428, 809 N.Y.S.2d 572 (2d Dept. 2006)

*Conti v. Equitable Life Assur. Soc. of U.S.*, 227 F.Supp.2d 282 (D.N.J. 2002)

## IN THE NEWS

Rafael Vergara Discusses Newark Office Managing Partner Role  
*Law360 Pulse*, 10.13.21

White and Williams Announces New Office Managing Partners  
10.5.21

Rafael Vergara Weighs In On New Jersey Assisted Living Decision  
*McKnight's Senior Living*, 7.2.21

White and Williams Sponsors DRI Nursing Home/ALF Litigation Seminar  
8.20.19

White and Williams Lawyers Host Mock Argument Exercise for New Jersey LEEP Students  
7.19.16

## PUBLICATIONS

New Jersey Appellate Court Requires Affidavit of Merit in COVID-19 Litigation Against an Assisted Living Facility  
*Healthcare Alert*, 9.30.22

New York's Highest Court Says Asbestos Causation Requires Evidence Of Sufficient Exposure To Sustain Liability  
*Litigation Alert*, 5.3.22

New York Alleviates Some Requirements of the Comprehensive Insurance Disclosure Act  
*Litigation Alert*, 3.10.22

New York Now Requires Defendants To Provide Automatic, Early Disclosure of Insurance Information  
*Litigation Alert*, 1.4.22

New Jersey Disallows Private Causes of Action Against Assisted Living Facilities for Breach of the Statutory Bill of Rights  
*Healthcare Alert*, 6.23.21

A Framework for Mitigating Liability Claims for Eldercare Facilities  
*Healthcare Alert*, 4.20.20

Favorable Decision for New Jersey Property Owners Regarding Snow and Ice Removal  
*Litigation Alert*, 1.28.20

Total Disability Definition Construed by New York Federal Court  
*Life, Health, Disability and ERISA Alert*, 1.13.20

New York City Courts Put Lawsuits Under the Child Victims Act on Hold  
*Litigation Alert*, 12.12.19

Nursing Homes Defending NY Lawsuits Brought by an Estate Should Scrutinize Whether the Plaintiff has Legal Capacity to Assert Claims  
*Healthcare Alert*, 9.9.19

NY Federal Court Refuses to Consider Extrinsic Evidence of an Insurer's Claim Handling for a Different Policyholder  
*Insurance Coverage and Bad Faith Alert*, 8.27.19

Medical Document Reviewer Hired by an Insurer Does Not Owe a Duty to an Insured, Says the Third Circuit Court of Appeals  
*Healthcare Alert*, 9.29.15

New Jersey Judge Calls for Retrial in Case of Nursing Home Act  
*Healthcare Alert*, 6.19.15