



## Patrick Bernal

Partner

1800 Broadway, Suite 300, Boulder, CO 80302

P 303.447.7185

[pjbernal@hollandhart.com](mailto:pjbernal@hollandhart.com)

**Patrick brings a business-focused approach to help his clients navigate a broad range of commercial disputes.**

Patrick works closely with companies to evaluate the risks, operational burdens, and costs of pursuing litigation. Clients appreciate his tactical, solution-oriented approach that outlines a clear roadmap for efficiently resolving conflicts.

Taking cues from clients' goals, Patrick handles all stages of disputes, from negotiating expeditious resolutions, to tendering insurance claims, to litigating through trial and appeal. He regularly provides businesses with proactive tips for avoiding disputes in the first instance. Patrick represents companies of all sizes, in a range of industry sectors, including construction, technology, cannabis, and food and beverage.

Before joining Holland & Hart, Patrick practiced at a national law firm in Colorado and previously worked at law firms in New York and Vermont.

### PRACTICES

Business Litigation  
Policyholder Insurance Coverage  
Trade Secrets and Non-Competes

### EDUCATION

Boston College Law School, J.D., 2004

Colby College, B.A., 2001  
*magna cum laude*

### BAR ADMISSIONS

Colorado  
New York  
Vermont

### COURT ADMISSIONS

U.S. Court of Appeals for the Second Circuit  
U.S. Court of Appeals for the Tenth Circuit  
U.S. District Court for the District of Colorado  
U.S. District Court for the Eastern District of New York  
U.S. District Court for the Southern District of New York  
U.S. District Court for the Western District of Arkansas  
U.S. District Court for the District of Vermont

### EXPERIENCE

#### Contractual Disputes

- Commercial leases, construction industry contract disputes, sales contracts, Uniform Commercial Code issues

#### Business Torts

- Misrepresentation, negligent misrepresentation, breach of fiduciary duty (involving profit and non-profit corporations), fraud, concealment, conversion, tortious interference, fraudulent transfers, defamation, unfair competition

#### Representative Business/Commercial Disputes

- Represent private companies and individuals in disputes, involving officer/director duties, shareholder issues, mismanagement, investment banking, management/leveraged buyouts
- Partnership and limited liability company disputes, including partnership agreements, fiduciary duties, valuation, and dissolution
- Prosecute and defend claims under the Colorado Common Interest Ownership Act

#### Insurance Coverage

- Coverage disputes involving construction defects, builders risk, Owner/Contractor Controlled Insurance Programs, commercial

general liability, excess and umbrella, commercial property, cyber security, representations and warranties, directors and officers, and employment practices insurance.

### **Product liability**

### **Trade Secrets/Covenants Not To Compete**

- Trade secrets / Covenants not to compete
- Non-solicitation agreements
- Other claims relating to departing employees
- Trade secret misappropriation

## **CLIENT RESULTS**

### **Contractual Disputes**

Successfully defended food company from landlord's claims that company had damaged its manufacturing facility; landlord sought \$390,000 plus interest, but was awarded just \$16,775 after three days of trial *Johns v. Natural Food Works, LLC*, No. 2020CV33330 Colo. Dist. Ct. Dec. 23, 2021

Achieved a trial victory and subsequent affirmance on appeal in a craft brewery's dispute with its landlord over significant unauthorized charges under a commercial lease *Crooked Stave, LLC v. Freight on the River, LLC*, 2021 Colo. App. LEXIS 706 May 13, 2021.

### **Business Torts**

Helped a manufacturer client secure a dismissal with no cost, after it was alleged to have caused the fatality of a truckdriver burned to death by molten mulch. The court agreed with Patrick's client's argument that it was not proximately responsible for the fatality. Instead, the action was settled by other defendants for an eight-figure amount.

Recovered a \$1 million jury verdict for a property-owner client in an appeal of an eminent domain decision by a public utility board. The board had originally awarded Patrick's clients only \$25,000.

Secured reversal of a default judgment entered against a real-estate developer, on grounds that the lower court had erred by authorizing defective service of process while Patrick's client resided abroad, based on a technical interpretation of the relevant procedural rule *Namaste Judgment Enforcement, LLC v. King*, 2020 COA 43.

### **Representative Business/Commercial Disputes**

Successfully defended a limited liability company and majority members from minority members' claims of breach of fiduciary duty and other similar claims; Plaintiffs' counsel sought \$48 million at closing but received award of just \$6 in nominal damages after five days of trial.

### **Insurance Coverage**

Successfully prosecuted an insurance-coverage claim through all stages of litigation, including appeal to the Vermont Supreme Court. The Supreme Court agreed with Patrick's municipal client that its insurer was required to cover the full value of money embezzled by a former treasurer, including the interest that the town had lost from being deprived of its money for decades.

Represented an insurance company client in successfully appealing a trial-court decision, which had required it to pay the entirety of a judgment against a contractor held responsible for significant head injuries to a high-school basketball star. The appellate court reversed, agreeing with Patrick's client's argument that the insurance policy should be found void ab initio based on the insured's fraud in its insurance application.

### **Trade Secrets/Covenants Not-to-Compete**

Represented, as lead counsel, a putative class of approximately 60 former employees of a technology company, alleged to have deprived our clients of approximately \$6.5 million—exclusive of interest and attorneys' fees—in phantom-share earnings.

### **PROFESSIONAL AND CIVIC AFFILIATIONS**

- Federal Bar Association, Member