

Litigation

The Litigation group provides exceptional legal representation to a wide range of business and industry groups, including energy, waste hauling, construction, emergency services, funeral services, restaurants, property management, financial institutions, and colleges and universities that are insured or self-insured.

Our lawyers provide sophisticated representation during all phases of tort and related business litigation in both federal and state courts in Pennsylvania, Delaware, New Jersey, New York, Massachusetts, and in other states *pro hac vice*. The group has a significant record of demonstrated success in jury and bench trials and on appeal. Clients trust our lawyers with their most complex catastrophic loss and "bet-the-company" cases.

Our extensive legal and industry experience enables us to provide clients with cost-effective, focused and aggressive representation during the pre-trial phases of litigation, early resolution, alternative dispute resolution, and at trial. This includes counseling on litigation avoidance; preparation for litigation, including e-discovery issues, litigation holds, critical incident response and preservation of evidence; latent and root cause analyses; and advice on best practices in general claims handling procedures.

Our trial teams handle a diverse range of personal injury, property, and contract claims including:

- First and Third Party Auto Defense
- Over-the-Road Trucking
- Department of Transportation Compliance
- Premises Liability
- Negligent Security
- Dram Shop Actions
- Emergency Services
- Waste Removal and Recycling
- Plant and Construction Accidents
- Defamation
- Contractual Indemnification
- Bad Faith

PRACTICE CONTACT

David R. Zaslow, Chair
215.864.6844
zaslowd@whiteandwilliams.com

RELATED PRACTICES

Appellate
Catastrophic/Excess Liability
Construction and Surety
Product Liability
Professional Liability
Toxic Torts and Environmental

RELATED INDUSTRIES

Food and Beverage
Healthcare
Insurance
Technology
Transportation

Trial Practice

Our Trial Group is a connected network of seasoned trial lawyers who have a record of achievement in trying and winning complex catastrophic loss and "bet-the-company" cases before juries, judges and arbitrators. The group employs an interdisciplinary approach that draws upon industry-specific groups and outside professionals to achieve successful outcomes by deeply analyzing complex legal and factual issues, developing expert witness evidence, and making the complex simple to deliver effective themes and arguments that resonate with the jury or ultimate fact-finder.

The group has earned the trust of clients through not only its accomplishments but also in understanding that successful outcomes require that trial preparation begins at the outset of a dispute in order to better leverage all available defenses and claims. This trial-ready mentality best positions the firm's clients for successful outcomes in and out of the courtroom.

With more than 50 lawyers at the ready, our trial team can staff multiple complex trials at any given time and has been retained at multiple points along the life cycle of a case. The group's deep experience and broad industry knowledge allows us to understand nuance and craft industry-specific strategy. We have a thorough understanding of jurisdictional issues and how they can impact outcome.

Catastrophic/Excess Liability

When it comes to catastrophic claims, our lawyers are regularly called in at any point in the claim or litigation process to rapidly respond to the urgent needs of clients throughout the country in matters that take place in state and federal courts. Our trial-tested lawyers immediately analyze the multiple issues, develop factual and expert evidence and formulate a strategy with a constant view towards trial. This approach provides our clients with a multitude of options, which ultimately saves them time and money as every case is fully prepared for trial.

Our team of lawyers responds to catastrophic personal injury claims involving wrongful death, cognitive impairment/brain injury, quadriplegia, paraplegia or psychological injury. In addition, our lawyers commonly involve themselves in catastrophic commercial or property damage losses involving business interruption, lost profits, business torts, libel, slander, destruction of business and inventory loss.

Our clients are located nationally and include insurance carriers, self insured entities, commercial property owners, manufacturers, transportation companies and healthcare facilities as well as business owners.

Our lawyers also provide counseling immediately after a catastrophic event occurs so they can guide the client through any regulatory inquiry and protect evidence such as witnesses, products, documents and electronic data. Counseling is often times a critical activity to preserving and developing evidence for trial.

Insurance Fraud

Utilizing an interdisciplinary approach, we draw upon varied experience to counsel a wide variety of insurance clients, including life, disability, homeowners, personal property, commercial, general casualty and mutual insurance carriers. We concentrate on cases of suspected fraud and we're dedicated to meeting insurers' needs in confronting fraudulent or exaggerated claims.

Members of our group aggressively resist fraudulent claims. We understand the red flags of insurance fraud including late notice of claim, exaggeration of damages and loss, impeding access to basic claim information, criminal conduct and the like. We also understand the need to vigorously press as a plaintiff, where appropriate, policy rescission and damages when fraud exists in the

insurance application or in the claim.

COMMERCIAL AND PROPERTY DAMAGE CLAIMS

Our attorneys work with insurance carriers investigating and resisting unfounded commercial and property losses, before and after litigation, on the basis of application misrepresentation, arson, concealment and fraudulent claim presentation. We understand the science of fire origin as it relates to arson, as well as basic accounting as it relates to business interruption coverage. With experience in closely related coverage issues arising under statutes and policy terms, our group handles claims arising from business interruption, jewelry theft, inland marine and other specialized property forms.

INSURANCE FRAUD COUNSELING AND COMPLIANCE

With the mounting pressure on State insurance regulators to reduce insurance fraud, suspected fraud has gained increasing importance in the insurance industry. Since insurers are required under the anti-fraud law to set up specialized insurance fraud units, we have policies and procedures to work in tandem with our clients in these matters. Our lawyers have experience in counseling clients on the impact of anti-kickback and anti-referral laws on healthcare transactions and arrangements, compliance with insurance fraud statutes and defending against State investigations into potential compliance violations. We develop a partnership with our clients to insure compliance.

LIFE, HEALTH, DISABILITY AND HEALTH INSURANCE CLAIMS

We have extensive experience in the defense of life and disability insurance claims, including fraudulent claims for benefits. We vigorously press the defenses of fraud in the application, fraud in the claim, first manifestation of sickness, legal disability and loss of professional licensure unrelated to disability, insurable interest, ERISA pre-emption, and pre-existing condition. Additionally, our group uses the Pennsylvania Insurance Fraud Prevention Act to pursue civil remedies for insurance fraud when there are material misstatements in the insurance application or in the claim. Our group seeks attorney's fees, costs, and treble damages, where appropriate, and prosecute insurance fraud, on the civil side, through the Fraud Prevention Act.

THIRD-PARTY PERSONAL INJURY CLAIMS

Our team is equipped to handle third-party personal injury cases where fraud is suspected. Cases involving staged accidents, fabricated injuries and exaggerated damages are vigorously defended. Emphasis is placed on intensive tailored discovery, a thorough workup of all aspects of the file, and an aggressive trial of the case to establish insurance fraud in the claim. The Insurance Fraud Prevention Act provides our clients with the opportunity to counterclaim for damages, including the costs of the investigation and attorneys fees, which is pursued when appropriate.

REPRESENTATIVE MATTERS

Fatal accident between ambulance and motorcyclist due to alleged negligent vehicle operation, training, supervision and entrustment of vehicle to driver by ambulance company; 28 year-old father of 3 year-old and pregnant wife; \$15 million demand; negotiated settlement for \$5 million after extensive investigation, discovery and expert review (Delaware County Court of Common Pleas)

Premises liability case in which custodian at a mall tripped near a commercial trash compactor due to alleged defects in the compactor and the concrete pad on which it was placed; plaintiff suffered a traumatic brain injury, fractured nose and hip and an inguinal hernia; \$2 million demand; obtained the voluntary dismissal of the compactor vendor prior to trial after extensive investigation, discovery and expert review (Philadelphia County Court of Common Pleas)

Funeral home action involving alleged negligent embalming, mishandling and transport of remains causing advanced decomposition prior to funeral; multiple tort and intentional tort claims with punitive damages demanded; obtained dismissal of case on preliminary objections (Lehigh County Court of Common Pleas)

Obtained a unanimous defense jury verdict on behalf of a regional material handling service and supply company after a six-week trial involving wrongful death and survival claims with a demand of \$15 million. Plaintiff alleged damages arising from negligent maintenance of a pallet truck involved in a warehouse accident. (Superior Court of N.J., Camden County)

Premises liability case in which off-duty police officer fell into a trash pit at a public trash transfer station; plaintiff sustained fractured cervical and thoracic vertebrae and a torn rotator cuff requiring multiple surgeries and rendering him unable to return to law enforcement work; \$2.5 million demand; settled case at mediation for \$850,000 (Philadelphia County Court of Common Pleas)

CASES & DEALS

Third Circuit Dismisses Defect Suit Against Group of Equipment Manufacturers
5.2.22

White and Williams Defeats Emergency Injunction Requests To Force Use of Ivermectin To Treat COVID-19 Patient
12.20.21

Healthcare Practice Group Wins Issue of First Impression in the Superior Court of New Jersey, Appellate Division
8.14.20

White and Williams Products Liability Team Achieves Summary Judgment in Major Amusement Park Accident Case
6.25.20

White and Williams Catastrophic Loss Team Achieves Summary Judgment for Pet Retailer
3.26.20

White and Williams Leads Successful Effort to Thwart Speculative Warehouse Development
2.17.20

White and Williams Secures Affirmation of Summary Judgment Based on Ohio's Causation Standard For Asbestos Cases
7.22.19

White and Williams Delivers Trial Victory for Horizon Healthcare Services, Inc.
6.5.19

White and Williams Secures Dismissal in Legal Malpractice Suit
3.15.19

PA Superior Court Affirms Dismissal of Legal Malpractice Action
5.17.18

White and Williams Secures Dismissal of New Jersey Law Against Discrimination Claim in Appellate Division
4.11.18

White and Williams Obtains Defense Verdict Following Arbitration in Case Alleging Wrongful Death Due to Improper Administration of Anesthesia
4.10.18

White and Williams Secures Affirmation of Summary Judgment in Catastrophic Personal Injury Case
2.7.18

Litigation Team Secures Dismissal of Claims Alleging Health Coverage Plan Creates Unfair Business Advantage
9.14.17

White and Williams Client Prevails in Malpractice Suit
6.6.17

NEWS

Best Lawyers® Recognizes 40 White And Williams Lawyers
Firm News, 8.18.22

Four White and Williams Lawyers Recognized as "Lawyer of the Year" by Best Lawyers®
8.18.22

Congratulations 2022 DE, MA, NJ, NY and PA Super Lawyers and Rising Stars
7.13.22

Two White and Williams Lawyers Included In City & State PA's Law Power 100
6.28.22

White and Williams Announces 15 Lawyer Promotions
1.3.22

White and Williams Ranked in Top Tiers of "Best Law Firms"
11.5.21

White and Williams Welcomes Ten New Associates
11.4.21

White and Williams Lawyers Recognized as Super Lawyers and Rising Stars
11.1.21

Best Lawyers® Recognizes 38 White and Williams Lawyers
8.19.21

Christopher Leise Recognized by US News – Best Lawyers 2022 "Lawyer of the Year"
8.19.21

White And Williams Announces Lawyer Promotions
Three Lawyers Elected to Partnership and Eight Associates Promoted To Counsel
1.4.21

Congratulations 2020 DE, MA, NY and PA Super Lawyers and Rising Stars
11.5.20

White and Williams Earns Tier 1 Rankings from U.S. News "Best Law Firms" 2021
11.5.20

Best Lawyers® Recognizes 43 White and Williams Lawyers
8.20.20

Victor Zarrilli Comments on Remote Depositions
New Jersey Law Journal, 6.11.20

White and Williams Announces Lawyer Promotions
Two Lawyers Elected to Partnership and Eight Associates Promoted to Counsel
1.2.20

Rochelle Gumapac Elected DRI State Representative for Delaware
11.5.19

13th Annual Coverage College Hosts Over 400 Insurance Professionals
11.1.19

White and Williams Earns Tier 1 Rankings from U.S. News "Best Law Firms" 2020
11.1.19

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

Best Lawyers® Recognizes 29 White and Williams Lawyers
8.15.19

Wes Payne Receives Defense Attorney of the Year Award
7.24.19

White and Williams Announces Lawyer Promotions
Six Lawyers Elected to Partnership and Four Associates Promoted to Counsel
1.2.19

12th Annual Coverage College Features Current Trends and State of the Insurance Claims Industry
10.23.18

Andy Ralston to Serve as Chair of the Northampton County Bar Association's Medical/Legal Committee
1.18.18

White and Williams Announces Lawyer Promotions
Two Lawyers Elected to Partnership and Six Associates Promoted to Counsel
1.4.18

David Zaslow Appointed President of Narberth Ambulance Board of Directors
1.19.17

White and Williams Elects Four Lawyers to Partnership, Promotes Six Associates to Counsel
1.6.17

PUBLICATIONS

A Reflection on the New Jersey Supreme Court's Recent Rejection of a Per Se Ban on Lost Profit Claims by New Businesses
Litigation Alert, 10.12.22

Resurrection from Repose: Forum Shopping, Law Borrowing and Defense Strategizing
Litigation Alert, 8.31.22

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

Personal Jurisdiction: SCOTUS to Decide if Registration by Out-of-State Corporations Confers General Jurisdiction
Litigation Alert, 4.27.22

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

Where Can Your Company Be Sued? A 2022 Update on All Things Personal Jurisdiction
General, Specific, Digital and Consent by Registration
Litigation Alert, 1.4.22

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

Tipping Point! Are PA's Damages Limits for Commonwealth Agencies About to be Eliminated or Changed After 40 Years?
Litigation Alert, 11.29.21

Pennsylvania Court Ominously Lowers the Bar for Asserting Actionable Punitive Damages Claims
Litigation Alert, 8.6.21

PA Supreme Court Limits Exceptions to Otherwise Time-barred Childhood Sexual Abuse Cases Against Institutional and Corporate Entities
Litigation Alert, 7.21.21

Medical Device Update: Third Circuit Certifies Questions Concerning Device Manufacturers' Liability Under Pennsylvania Law
Litigation Alert, 7.16.21

Don't Be the Next Boeing: Fixing Tension Between Engineering, Legal
Bloomberg Law, 6.25.21

Legal Use Case 7 Part III: The Analysis
Apex Ridge Reliability, 6.3.21

The (un)Fair Share Act – Will Different Damages Rules for Different Plaintiffs Stand?
Litigation Alert, 6.2.21

Legal Use Case 7 Part II: The Prescription
Apex Ridge Reliability, 5.19.21

Are Industry Standards Beside the Point Where Strict Liability is Claimed?
Product Liability Alert, 5.18.21

Legal Use Case 7: A Conversation
Apex Ridge Reliability, 5.11.21

SCOTUS Scuttles Forum Shopping Litigation Tourists
Litigation Alert, 3.30.21

The Pennsylvania Superior Court Suggests a New Limitation to the Fair Share Act, Albeit in *Dicta*
Litigation Alert, 3.29.21

Products Liability Law Slow to React to Growing Demand for Commercial Drone Use
The Legal Intelligencer, 3.17.21

Door Shut on Reviving All Time-Barred Childhood Sexual Abuse Claims, but Many Plaintiffs Can Still Get Into Court Through the Window...
Litigation Alert, 2.3.21

Protecting Access to Post-COVID-19 Telehealth Act Reintroduced to Congress
Healthcare Alert, 1.28.21

Uniform Rules Governing New York's Supreme and County Courts Get An Overhaul
Litigation Alert, 1.26.21

Fair Cross-Section Concerns Potentially Impacting Pandemic Jury Trials
The Legal Intelligencer, 1.8.21

Can You Really Be Liable For a Product You Didn't Make? In New Jersey, the Answer is Yes
Product Liability Alert, 11.17.20

The Nation's First Binding Virtual Jury Trial is a Success, But Limitations Remain
Litigation Alert, 8.19.20

Considering the Juror Pandemic Lens – Seating a Jury
Litigation Alert, 8.3.20

Real Problems with Virtual Jury Trials: The Shallowing of Jury Pools
Commercial Litigation Alert, 7.21.20

Remote Trials Can Control Prejudgment Risk
Litigation Alert, 7.20.20

When Will We See a Resumption of Jury Trials in Philadelphia County?
The Legal Intelligencer, 7.10.20

Evaluating Alternative Avenues to Verdict in the COVID-19 Legal Atmosphere
Litigation Alert, 7.7.20

Liability in the Telehealth Era
Healthcare Alert, 6.18.20

Courts Are Ordering Remote Depositions as the COVID-19 Pandemic Continues
Part Three of the Series Addressing How Technology Is Changing the Litigation Landscape
Litigation Alert, 6.12.20

Jury Trials and Mediation in Philadelphia County: Virtually in Person
Litigation Alert, 6.9.20

Virtual Jury Trials: The Next Wave of Remote Legal Practice
Litigation Alert, 6.4.20

Striking the Balance: Making the Tough Judicial Call
Litigation Alert, 5.11.20

Broker Liability in the Wake of COVID-19 Coverage Litigation
Professional Liability Alert, 5.8.20

Workers Compensation Act Exclusivity Likely Bars Most Employee COVID-19 Claims
Workers' Compensation Alert, 5.1.20

It Has Started: Supply-Chain, Warehouse and Retail Workers of Essential Businesses Are Filing Suit
Litigation Alert, 4.14.20

Protecting Your Business From Liability Claims Stemming From COVID-19 Exposure
Litigation Alert, 4.6.20

Not Remotely Law as Usual: Don't Settle for Delays – Settle at Remote Mediation
Part Two of the Series Addressing How Technology is Changing the Litigation Landscape
Litigation Alert, 4.3.20

Pennsylvania Courts Closed Through April 30, 2020: Litigating in the Current Statewide Emergency
Litigation Alert, 4.2.20

White and Williams LLP Secures Affirmation of Denial to Change Trial Settings Based on Plaintiffs' Failure to Meet the Texas Causation Standard for Asbestos Cases
Product Liability Alert, 4.1.20

Not Remotely Law as Usual: Remote Depositions – The Same But Different
General Litigation Alert, 3.31.20

Is a Violation of a COVID-19 Order the Basis For Civil Liability?
General Litigation Alert, 3.26.20

Social Distancing and the Impact on Service of Process Amid the COVID-19 Pandemic
Litigation Alert, 3.26.20

Unfair Shares: PA Supreme Court Mandates *Per Capita* Allocation Among Liable Product Defendants and Settled Parties
Product Liability Alert, 2.25.20

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

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

Pennsylvania Follows Multi-State Movement to Modify and Extend Statutes of Limitation for Sexual Abuse Claims
General Litigation Alert, 12.2.19

US Supreme Court Denies Certiorari in Appeal by Gun Manufacturer, Remington, in Case Brought by Families of Sandy Hook Massacre Victims
Product Liability Alert, 11.13.19

NJ Supreme Court Rules STOLI Policies Violate Public Policy and Void at the Outset
Litigation Alert, 6.5.19

Major Changes to MA Superior Court Motion Practice
Boston Bar Journal, 11.6.18

PA Supreme Court Declines to Consider Constitutional Challenge to Statutory Damages Cap Applicable to Commonwealth Agencies
Litigation Alert, 10.25.18

Delaware Adopts New Anti-Sexual Harassment Law
Labor and Employment Alert, 9.10.18

New Massachusetts Law Substantially Restricts Employee Non-Compete Agreements
Taking Care of Business, 8.10.18

Recent District Court Decision Provides for Molded Verdict to Offset Tax Consequences of Lump-Sum Award
Labor and Employment Alert, 7.30.18

Plaintiffs No Longer Have to Demonstrate the Absence of Comparative Fault to Avoid Summary Judgment in New York
Litigation Alert, 4.17.18

Social Media in Litigation: The Increasing Impact and Evolving Standards for Discoverability and Admissibility
Litigation Alert, 3.28.18

After Nearly 100 Years, the *Frye* Standard Still Has Some Teeth
Counterpoint | Pennsylvania Defense Institute, 1.18

Pennsylvania's Fair Share Act: Reshaping Apportionment in Strict Liability Cases
Litigation Alert, 1.9.18

Delaware High Court Rejects Effort to Target Defense IME Physician
Doctor, You're (NOT) a Fraud!
Healthcare Alert, 1.24.17

Lessee Deemed Statutory Employer, Immune from Tort Liability by Pennsylvania Court
Construction and Surety Alert, 11.2.16

EVENTS

Hot Topics for Your Practice: Your 2021-2022 Survival Guide
Pennsylvania Bar Association, 9.24.21

Lehigh Valley Labor & Employment Seminar
Webinar, 5.26.21

Open Court: Return of In-Person Jury Trials in Philadelphia and Resolving Cases During COVID-19
Webinar, 4.22.21

Wound Documentation: Avoiding the "Pressure" and Litigation "Injuries"
Caring Communities/Peace Church Risk Retention Group and ECRI Webinar, 8.18.20

COVID-19 Insurance Program
Webinar, 8.11.20

Trial Skills from Trailblazing Women Litigators
Pennsylvania Bar Institute (Webinar), 8.6.20

Hot Topics in Civil Litigation
Pennsylvania Bar Association 2020 Midyear Meeting, 1.30.20

Civil Trial From Start to Finish
National Business Institute (Bethlehem, PA), 4.23.19

Risky Behaviors: How They Can Lead to Being Sued
Legal Challenges in Healthcare
Children's Hospital of Philadelphia, 11.17.18

Deposition Basics: Practical Tips for a Successful Deposition
Client Seminar, 8.22.18

Joint and Several Liability in 2018
Pennsylvania Bar Institute (Philadelphia, PA), 4.27.18

Visual Storytelling: Using Graphics and Animation to Advance Your Case
Philadelphia Association of Defense Counsel, 4.17.18

Hot Topics in Civil Litigation
Pennsylvania Bar Association Midyear Meeting (Key West, FL), 1.25.18

Personal Jurisdiction: What Litigators and Transactional Attorneys Should Know
Philadelphia, PA, 1.16.18

Hot Topics in Civil Litigation
Pennsylvania Bar Association Midyear Meeting (St. Kitts), 1.26.17

Pennsylvania Appellate Court Judges Panel
Pennsylvania Bar Association Midyear Meeting (St. Kitts), 1.26.17