

Edward M. Koch

Partner

Chair, Appellate Group
Practice Contact: Class Actions and First-Party Property

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The breadth of Ed's practice allows him to counsel clients and lawyers alike in cases involving multidisciplinary substantive and procedural areas of the law. He is often called on to assist with high-profile and high-exposure cases.

OVERVIEW

Edward Koch has over 25 years of experience in first and third-party insurance coverage, appeals, and class actions. The breadth of his practice allows him to counsel clients and lawyers alike in cases involving multidisciplinary substantive and procedural areas of the law. As a result, Ed's assistance is often solicited for the firm's high-profile and high-exposure cases. Ed has successfully defended clients in cases involving multi-million and, in some cases, multi-billion-dollar exposures.

As an insurance lawyer, Ed handles a variety of first and third-party coverage matters. The first-party matters include claims of businesses and individuals for property, business interruption, bad faith, and other damages. Ed's clients look to him to assume various roles in such first-party claims – from spearheading a claim investigation to defending the insurer's coverage position in litigation and on appeal – and everything in between.

Ed's experience with third-party claims is equally diverse, including national sports concussion litigation, consumer class actions, clergy sexual abuse, commercial trucking accidents, construction accidents, and construction defects. Ed's role is often as an advisor to help his insurer clients ascertain whether a duty of defense or indemnification is triggered, but more frequently as an advocate to efficiently resolve coverage issues through declaratory judgment litigation.

In the wake of the COVID-19 pandemic, Ed has been enlisted by various insurers as national coordinating and litigation counsel for COVID-19 insurance claims.

As an appellate lawyer and Chair of the firm's Appellate Group, Ed handles appeals in state and federal courts in the broad spectrum of substantive areas of the law and jurisdictions in which the firm practices, generally. These areas include ERISA, class actions, construction practices, general commercial litigation,

PRACTICES

Appellate
Class Actions
First-Party Property
Healthcare
Insurance Coverage and Bad Faith
Life, Health, Disability and ERISA
Litigation
Product Liability
Professional Liability

BAR AND COURT ADMISSIONS

Pennsylvania
New Jersey
U.S. Court of Appeals for the Third Circuit
U.S. Court of Appeals for the Eleventh Circuit
U.S. District Court for the District of New Jersey
U.S. District Court for the Eastern District of Pennsylvania
U. S. District Court for the Middle District of Pennsylvania
U. S. District Court for the Western District of Pennsylvania
U.S. Supreme Court

EDUCATION

Florida State University College of Law, JD,
with honors, 1995
Villanova University, BA, *cum laude*, 1992

insurance coverage and bad faith, insurance fraud, insurance professional liability, life, health and disability, medical professional liability, product liability, subrogation, and toxic and environmental torts. Ed is sometimes embedded as an appellate attorney within a trial team to help develop litigation strategy, draft and argue dispositive motions, monitor trials, and craft and argue post-trial motions. As embedded appellate counsel, Ed's goal is not only to win the trial, but to win the case.

The diversity of Ed's practice continues with his work on class actions, which present high-stakes and sometimes bet-the-company exposure. He has successfully defended class actions involving consumer liability, Fair Debt Collection Practices Act, healthcare, insurance, and toxic torts. He has also engineered class-wide settlements when appropriate to efficiently resolve claims and to place reasonable caps on his clients' potential liabilities.

Ed is a frequent author and lecturer on such issues as COVID-19 business interruption litigation, first and third-party insurance coverage, first and third-party insurance claims handling, first-party insurance appraisals, appellate practice and procedure, class actions, declaratory judgments, legal ethics, legal writing, oral argument, releases, joint and several liability, expert testimony motion practice, indemnity contracts, and trial evidence. Ed is also occasionally called upon to author amicus curiae briefs in the appellate courts on issues of far-ranging significance to the defense community. Ed is a former Co-Chair of the Philadelphia Bar Association - Appellate Courts Committee.

Ed has conceived and created various educational programs offered by the firm, including the Court Crier® newsletter, the Healthcare Summit (now known as MEDx Talks), the Litigation Associates Training Program, and the firm's monthly Lunch and Learn Program.

RECOGNITION AND INVOLVEMENT

Ed is AV® Preeminent™ rated by the Martindale-Hubbell peer review rating system.

Ed is a father of three. He served on the Concord Township, Pennsylvania Historical Commission.

REPRESENTATIVE MATTERS

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

MEMBERSHIPS

Pennsylvania Defense Institute
Philadelphia Association of Defense Counsel
Philadelphia Bar Association

District Court in The Middle District of Pennsylvania Dismisses Hotel's Claim for Lost Business Income Due To COVID-19
6.21

White and Williams Successfully Defends on Appeal the Dismissal of Class Action Lawsuit
4.5.21

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

Media Coverage Team Obtains Summary Judgment in Connection with Underlying Defamation Lawsuit
1.23.19

Appeal Secures Seven-Figure Settlement for Philadelphia-Based Food Manufacturer
5.31.18

Litigation Team Obtains Summary Judgment in Case Involving Sinkholes at Bulk Propane Storage Facility
9.27.17

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

White and Williams Secures Reversal of Critical Ruling Involving Confidential and Proprietary Business Information
7.7.16

Retained following the entry of an adverse summary judgment ruling finding that a contractor had a duty to indemnify a condominium association and its management company for injuries sustained by the contractor's employee and for the contractor's alleged failure to procure insurance that met the requirements in a service agreement between the association and contractor, and promptly reversed that decision through an interlocutory appeal in the New Jersey Appellate Division.

Obtained summary judgment, and defeated class certification, on behalf of an event security company in Maryland class action consisting of hundreds of young female dancers who were spied upon by a convention center public safety officer who inappropriately used the facility's surveillance cameras to view and record the dancers' dressing area

Currently acts as national coordinating counsel and litigation counsel for various insurers for COVID-19 insurance claims

Successfully defeated emergency injunction sought by gravely ill COVID-19 patient whose family sought to have hospital administer Ivermectin for treatment of COVID-19, a drug which has not been approved for such treatment by any regulatory body

Successfully obtained declaratory relief fully extricating insurer from defense and indemnity obligations to religious institution accused of facilitating sexual molestation of minors over decades

Successfully moved to dismiss all claims brought by a hotel that sought insurance coverage for alleged business income losses arising from the COVID-19 pandemic

Obtained summary judgment against condominium association that sought first and third-party insurance coverage for losses resulting from faulty workmanship causing water infiltration in the building

Successfully obtained declaratory relief extricating insurer from liability for defense and indemnification for a California class action against manufacturer of non-stick copper pans that failed to perform as advertised, as such faulty workmanship claims failed to constitute an "occurrence" under the manufacturer's commercial general liability insurance policy

Successfully defeated class action of consumers suing a California law firm for alleged violations of the Fair Debt Collections Practices Act, and affirmed that result on appeal in the Third Circuit Court of Appeals

Reversed on appeal a jury's defense verdict for a bank in a suit brought by a federal receiver for the bank's participation in a Ponzi scheme on grounds that trial court erroneously concluded that Pennsylvania did not recognize a cause of action for aiding and abetting fraud and for other errors concerning the erroneous admission of evidence, resulting in exposure to the bank on retrial well in excess of \$20 million

Obtained summary judgment in favor of insurer in federal court in Florida on insurance claim of commercial card lock fueling facility for an extended series of individual fuel thefts by a trucking company, and affirmed that result on appeal in the 11th Circuit Court of Appeals

Earned en banc rehearing in the District of Columbia Circuit, and subsequent ruling in clients' favor, on petition for review on behalf of Pennsylvania homeowners challenging the improper taking of their property for a natural gas pipeline, thereby overturning 50 years of precedent concerning the Federal Energy Regulation Commission's ability to issue tolling orders

Obtained new trial following entry of substantial award of punitive damages against insurer arising from Delaware workers compensation matter on grounds that award was grossly excessive and shocked the conscience

Reversed on appeal finding of federal district court that beneficiaries of a life insurance policy were entitled to full proceeds of life insurance policy when insured committed suicide within two years of securing a replacement life insurance policy

Secured a dismissal, on appeal, on behalf of Horizon Healthcare Services, Inc. against claims that its Omnia healthcare plan violated the New Jersey state Healthcare Quality Act and that the state's opioid crises required the court to create a private right of action

Secured favorable class action settlement on behalf of automobile insurer for the alleged failure to pay interest on overdue personal injury protection benefits

Successfully represented major health insurer against efforts by hospitals to enjoin implementation of new health insurance product

Defeated class certification of class of nursing home residents who sued nursing home for alleged substandard care related to inadequate staffing and wound care, and successfully defended the result on appeal

Obtained summary judgment in favor of insurer for coverage sought by operator of commercial bulk propane storage facility for the development of sinkholes that allegedly placed numerous tanks at risk of collapse

Defeated putative class action of New Jersey automobile policyholders who sought to reform their uninsured/underinsured motorists coverage

Currently represents several insurance carriers in claims for coverage by national football and hockey leagues for concussions and related injuries suffered by participants over decades

Secured the reversal on appeal of a multi-million dollar judgment against an electric utility company arising out of a painting subcontractor's fall from an electric transmission pole

Represented several insurance carriers for asbestos liability coverage for asbestos claims allegedly totaling over \$100 million by manufacturer of asbestos products

Secured the reversal on appeal of a multi-million dollar judgment against a general contractor arising out of a construction accident by arguing that the general contractor was immune from suit as the injured person's statutory employer, which defense was asserted for the first time in post-trial submissions after Ed was retained

Successfully defended multi-billion dollar claim against a leading independent equity research firm by a large multi-national pharmaceutical company for defamation, and successfully countersued and secured a confidential settlement for malicious prosecution

Successfully defended on appeal before the Pennsylvania Supreme Court a medical professional liability claim against a hospital and an obstetrical resident arising from an emergency Cesarean section in which the resident allegedly failed to procure the mother's informed consent prior to surgery

Successfully defended an insurance company from claims for insurance coverage arising from theft of product designs and customer information from a former employer

Secured emergency stay from the Pennsylvania Supreme Court of a medical professional liability trial, which, in turn, resulted in the stay of hundreds more such cases in Philadelphia County pending resolution of the applicability of a venue amendment by the Pennsylvania Supreme Court that required medical professional liability claims to be filed in the county in which the alleged medical professional negligence occurred; after an amendatory order was issued by the Pennsylvania Supreme Court, the stay was lifted and hundreds of such cases were transferred outside of Philadelphia

Secured the reversal on appeal of \$9 million judgment in favor of insurance brokers who allegedly failed to secure certain maritime insurance coverage for a start-up marine commuter transportation company

Secured a \$20 million reduction of a judgment following trial against a non-settling defendant, instead of the \$4 million reduction sought by plaintiffs, due to a combination of pro tanto and pro rata releases entered into by the settling defendants

Negotiated a favorable settlement on behalf of an insurance company for a consumer class action for alleged irregularities in binding PIP coverage contained in New Jersey automobile insurance policies obtained over the internet and telephone

Successfully defended an appeal involving a claim against an insurance broker who allegedly failed to procure appropriate insurance coverage for a fatal industrial work accident

Secured the dismissal under the Communications Decency Act of a claim against the alleged owner and operator of a political website that was a repository of information and articles that were critical of a state politician

Successfully defended various insurance companies from a variety of claims for insurance coverage and bad faith relating to adjustment of commercial and residential property losses

Successfully defended on appeal various healthcare providers for claims of medical professional liability

Successfully defended on appeal various insurance companies for claims for insurance coverage and bad faith arising from a variety of other commercial and personal insurance claims

IN THE NEWS

Commercial Litigation Team Argues High-Profile FERC Pipeline Case Before En Banc D.C. Circuit Court of Appeals
5.12.20

13th Annual Coverage College Hosts Over 400 Insurance Professionals
11.1.19

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

Coverage College Celebrates Its 10th Anniversary
9.22.16

The Ninth Annual Coverage College Features True-to-Life Case Study
10.8.15

EVENTS

Coverage College 2021
10.21.21

Coverage College 2020
10.22.20

COVID-19 Insurance Program
Webinar, 8.11.20

Coverage College 2019
10.24.19

Class Action Coverage Issues
White and Williams Coverage College, 9.22.16

Bad Faith by Bobbling and Bungling the Claim
White and Williams Coverage College, 10.8.15

Emerging Developments in Healthcare Litigation from the Courts and Legislature
2015 Healthcare Summit, 5.7.15

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

GA Federal Court Holds That Jury, Not Judge, Generally Must Decide Whether Notice Was Given "As Soon as Practicable" Under First-Party Property Damage Policies
Insurance Coverage and Bad Faith Alert, 10.7.21

New Jersey Law Requires Insurers to State Whether Business Interruption Policies Cover Global Virus Transmission, Pandemic Coverage
Insurance Coverage and Bad Faith Alert, 5.17.21

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

How Are Insurers And Policyholders Faring in COVID-19 Business Interruption Coverage Litigation?
The Complex Insurance Coverage Reporter, 12.17.20

California Business Interruption COVID-19 Coverage Bill: A New Twist to Proposed State Legislation
Insurance Coverage and Bad Faith Alert, 7.8.20

Alert
Insurance Coverage and Bad Faith Alert, 5.20.20

Pennsylvania Joins the Fray: Legislature Introduces Bill to Force Insurers to Pay for COVID-19-Related Business Interruption Losses
Insurance Coverage and Bad Faith Alert, 4.6.20

"Direct Physical Loss or Damage": The Gatekeeper to Property Insurance Coverage and COVID-19
Insurance Coverage and Bad Faith Alert, 3.24.20

New Jersey's Proposed COVID-2019 Business Interruption Insurance Legislation Fails to Socially Distance Itself From Constitutional Prohibitions
Insurance Coverage and Bad Faith Alert, 3.19.20

COVID-19: The Real Operation of New Jersey's Proposed Insurance Legislation
Insurance Coverage and Bad Faith Alert, 3.19.20

First Coronavirus Coverage Suit Filed For Business Interruption
Insurance Coverage and Bad Faith Alert, 3.17.20

\$500,000 Punitive Damages Award in Bad Faith Action Shocks Delaware Court's Conscience and Justifies New Trial on Liability and Damages
Insurance Coverage and Bad Faith Alert, 3.16.20

ISO Excluded Coronavirus Coverage 15 Years Ago
Insurance Coverage and Bad Faith Alert, 3.15.20

White and Williams Files Amicus Brief in Pennsylvania Medical Malpractice Time-Limit Ruling
Healthcare Alert, 11.18.19

Revised Federal Rule Regarding Class-Wide Settlements
Class Actions Alert, 3.18.19