

JOHN J. HARE

CHAIR, APPELLATE ADVOCACY AND POST-TRIAL PRACTICE
SHAREHOLDER



AREAS OF PRACTICE

COVID-19 Task Force
Appellate Advocacy and Post-Trial Practice

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ADMISSIONS

Pennsylvania
1994

U.S. Court of Appeals 3rd Circuit

U.S. District Court Eastern District
of Pennsylvania

U.S. District Court Middle District
of Pennsylvania

U.S. District Court Western District
of Pennsylvania

U.S. Court of Appeals 4th Circuit

OVERVIEW

John is a member of the firm's Board of Directors and chair of the ten-attorney Appellate Advocacy and Post-Trial Practice Group. He has litigated more than 500 appeals in state and federal appellate courts. As litigation counsel, John has represented individuals, insurers, and corporations in some of the most high-profile litigation in recent Pennsylvania history, including dozens of cases with verdicts and settlements in excess of \$10 million. As amicus curiae counsel, John has represented a diverse clientele, including the United States Chamber of Commerce, the Pennsylvania Chamber of Business and Industry, the American Medical Association, the Pennsylvania Medical Society, the Pennsylvania Defense Institute, the American Society for the Prevention of Cruelty to Animals, other Pennsylvania lawyers, and academics interested in the outcome of appellate litigation.

Pennsylvania Super Lawyers magazine has repeatedly recognized John as a Top 100 lawyer in both Philadelphia and Pennsylvania based on a peer selection and evaluation process. He has also been selected as a Super Lawyer in the area of appellate practice every year since 2008. He is a Fellow of the American Academy of Appellate Lawyers, a member of the International Association of Defense Counsel, and has an AV Preeminent (5.0/5.0) rating by Martindale-Hubbell, the highest rating for professional competence.

John formerly served as chair of the Pennsylvania Supreme Court's Civil Procedural Rules Committee, on the Board of Governors of the Bar Association of the Third Federal Circuit, and as co-chair of the amicus curiae committee of the Pennsylvania Defense Institute. He serves on the advisory board of *Ohlbaum on the Pennsylvania Rules of Evidence* (Lexis-Nexis), regularly speaks on appellate topics, and is actively involved in bar association activities.

John has edited and co-authored two books on Pennsylvania appellate courts. *The Supreme Court of Pennsylvania; Life and Law in the Commonwealth, 1684-2017*, was published by the Pennsylvania State University Press in 2018. *Keystone of Justice: The Pennsylvania Superior Court, 1895-1995*, was published by the Commonwealth of Pennsylvania in 2000.

John is regularly called upon by the media to provide insight and commentary on significant legal issues. To view recent articles in which John is quoted, click the Thought Leadership tab and scroll down to the Media Commentary section.

EDUCATION

Princeton University (coursework
completed for Ph.D., 1999)

University of California, Berkeley
(M.A., 1998)

Duquesne University School of
Law (J.D., 1993; Editor, Duquesne
Law Review)

Indiana University of Pennsylvania
(B.A., magna cum laude, 1990)

HONORS & AWARDS

AV® Preeminent™ by Martindale-Hubbell®

Pennsylvania Super Lawyers 2008-2021; Top 100 in Pennsylvania, 2018-2021; Top 100 in Philadelphia, 2018-2021

Philadelphia Business Journal, Best of the Bar Award, 2018

The Philadelphia Inquirer, Influencers of Law Award, 2019

ASSOCIATIONS & MEMBERSHIPS

American Academy of Appellate Lawyers, Fellow, 2016

Bar Association for the Third Federal Circuit

International Association of Defense Counsel, 2018

Pennsylvania Bar Association

Pennsylvania Defense Institute, 2008

Pennsylvania Supreme Court, Civil Procedural Rules Committee, 2015-2021; Chair, 2019-2021

THOUGHT LEADERSHIP

Medical Malpractice Venue Rule Overturned

**King of Prussia
Health Care Liability
Appellate Advocacy and Post-Trial Practice
August 26, 2022**

By Order dated August 25, 2022, effective January 1, 2023, the Supreme Court of Pennsylvania amended Pennsylvania The material in this law alert has been prepared for our readers by Marshall Dennehey.

Marshall Dennehey Announces 2022 Pennsylvania Super Lawyers and Rising Stars

May 23, 2022
Thirty-four attorneys across Marshall Dennehey's six Pennsylvania offices have been selected to the 2022 edition of Pennsylvania Super Lawyers magazine.
[Read More](#)

Pennsylvania Supreme Court Resuscitates Peer Review Privilege

**King of Prussia
Health Care Liability
Appellate Advocacy and Post-Trial Practice
Behavioral Health Risk and Liability
Birth and Catastrophic Injury Litigation
August 18, 2021**

In *Leadbitter v. St. Clair Hospital et al.*, No. The material in this law alert has been prepared for our readers by Marshall Dennehey Warner Coleman & Goggin.

Marshall Dennehey Announces 2021 Pennsylvania Super Lawyers and Rising Stars

May 26, 2021
Forty-five attorneys from the Pennsylvania offices of Marshall Dennehey Warner Coleman & Goggin have been selected to the 2021 edition of Pennsylvania Super Lawyers magazine.
[Read More](#)

Marshall Dennehey Announces 2020 Pennsylvania Super Lawyers and Rising Stars

May 29, 2020
Fifty-two attorneys from the Pennsylvania offices of Marshall Dennehey
[Read More](#)

CLASSES/SEMINARS TAUGHT

The Development of Our Supreme Court, Tricentennial Anniversary of the Supreme Court of Pennsylvania, National Constitution Center, May 21-22, 2022, Moderator and Speaker

Civil Litigation Update 2022, Pennsylvania Bar Institute, March 4, 2022

Civil Litigation Update 2021, Pennsylvania Bar Institute, March 4, 2021

Judicial Engagement and the Pennsylvania Constitution, Institute for Justice, Center for Judicial Engagement, October 16, 2020

The "New" Pennsylvania Supreme Court; Reflections on the Last Three-Plus Years, Pennsylvania Bar Institute, September 9, 2019

Your Case is in the News; Handling High-Profile Litigation, Moderator, American Academy of Appellate Lawyers, 2019 Spring Conference, April 13, 2019

The Pennsylvania Constitution: An Independent Source of Rights and Judicial Power, Pennsylvania State Trial Judges Conference, February 21, 2019

The Supreme Court of Pennsylvania: Life and Law in the Commonwealth, 1684-2017: A Conversation, hosted by Duquesne University for Pennsylvania Supreme Court, October 24, 2018

PUBLISHED WORKS

The Supreme Court of Pennsylvania; Life and Law in the Commonwealth, 1684-2017 (Hare ed., Penn State, 2018)

"What's New In 2017? Filing Trends and Developments In Asbestos Litigation," *Mealey's Litigation Reports*, August 16, 2017

"Sunlight is the Best Disinfectant; Solutions to the Concealment of Asbestos Trust Filings in Tort Litigation," *For The Defense*, April 2016

"Uncloaking Bankruptcy Trust Filings In Asbestos Litigation: Refuting the Myths About Transparency," *Mealey's Asbestos Bankruptcy Report* and *Mealey's Litigation Report Asbestos*, April 2016

"Uncloaking Bankruptcy Trust Filings In Asbestos Litigation: A Survey Of Solutions To The Types Of Conduct Exposed In Garlock's Bankruptcy," *Mealey's Asbestos Bankruptcy Report*, August 28, 2015

MEDIA COMMENTARY

"PA Budget, Political Appointment Decisions for Gov. Josh Shapiro," *GoErie.com*, January 3, 2023

"Defense Attorneys Brace for Impacts as Medical Malpractice Venue Rule Changes Loom," *The Legal Intelligencer*, October 5, 2022

"Pa. Legal Community Remembers Chief Justice Baer as a Consensus Builder, Family Law Icon," *The Legal Intelligencer*, October 3, 2022

"Lawyers Argue for New Trial, Reduction of \$19 Million Verdict for Pool Injury," *The Tribune-Review*, August 8, 2022

"Woman Gifted Groupon Massage Must Arbitrate Assault Claims: Court," *Pennsylvania Law Weekly*, August 2, 2022

"Guns, Abortion & Voting Rights: 5 Critical PA Supreme Court Cases to Keep an Eye on in 2022," *Pocono Record*, July 18, 2022

"Plaintiffs Seek to Narrow Pa. High Court's Ruling Axing Jurisdiction by Business Registration," *The Legal Intelligencer*, February 1, 2022

"Pa. Justices: Defense Attorney's Question During Ex-NFL Player's Med Mal Trial Was Not Improper," *Pennsylvania Law Weekly*, December 28, 2021

"Pa. Justices Say Two Disputed Words Don't Warrant New Trial," *Law360*, December 22, 2021

"Pa. Justices Split Over Whether Two Words Warrant Retrial," *Law360*, September 21, 2021

"'Even Bad People': Legal Community Divided on Unpopular Decision That Freed Cosby," *The Legal Intelligencer*, July 1, 2021

"Pa. Cases to Watch in 2021: Midyear Report," *Law360*, July 9, 2021

"Pa. Atty Off Hook for Extended Interest on Malpractice Award," *Law360*, March 31, 2021

"Pa. Justices Snub Appeal Over Axed \$40M Spinal Injury Award," *Law360*, March 30, 2021

"Pennsylvania Cases to Watch in 2021," *Law360*, January 3, 2021

"Pa. Court Scraps \$40M Suburban Phila. Jury Verdict Over Birth Injury," *The Legal Intelligencer*, July 20, 2020

"Measure to Split Pa. Court Seats Seen as Political Play," *Law360*, July 17, 2020

"Pa. Panel Wipes Out \$40M Award for Baby's Spinal Injury," *Law360*, July 16, 2020

"Top Pennsylvania Cases of 2020: A Midyear Report," *Law360*, July 2, 2020

"3rd Circ. Punts Amazon Seller Liability Case to Pa. Justices," *Law360*, June 2, 2020

"Panel Axes \$10M Award in Surgery Patient's Drug Death Suit," *Law360*, April 9, 2020

"Pa. Appeals Court Slashes Award; Finds Jury Went Too Far With \$10 Million Verdict," *The Legal Intelligencer*, April 9, 2020

"Pennsylvania Cases to Watch in 2020", *Law 360*, January 3, 2020

"Drifting Away From Precedent?: Some See Pa. Supreme Court Upending Established Case Law," *Pennsylvania Law Weekly*, December 23, 2019

"The Biggest Pa. Appellate Rulings Of 2019: Midyear Report," *Law360*, July 3, 2019

"Pa. Jurisdiction in Grenfell Tower Suit May be Tested by Evolving Case Law," *The Legal Intelligencer*, June 12, 2019

"Law Firms Going 'Old School' as Phila. Court System Struggles to Recover From Computer Virus," *The Legal Intelligencer*, May 31, 2019

"At Last, Unpublished Superior Court Opinions Can Be Cited. Now What?," *The Legal Intelligencer*, March 29, 2019

"This Pennsylvania Committee Is Proposing Changes That Benefit Five Of Its Members' Law Firms," *Forbes and Pennsylvania Record*, February 19, 2019

"Tough Sell On Cancer Link Awaits At 1st Philly Talc Trial," *Law360*, February 5, 2019

"CBS Tells Justices No Liability For Asbestos Added By Others," *Law360*, September 20, 2018

"The Biggest Pa. Appellate Rulings Of 2018: Midyear Report," *Law360*, July 12, 2018

"Judge Says Pa.'s Corporate Registration Law Doesn't Create Jurisdiction," *The Legal Intelligencer*, June 11, 2018

"Superior Court Throws Out \$32M Wrongful Death Award," *The Legal Intelligencer*, May 3, 2018

"Pa. Tort Ruling Highlights Discrepancies in Jury Instructions," *Law360*, February 23, 2018

"Commonwealth Court: Philly Beverage Tax is Legal," WHYY's *Keystone Crossroads*, June 14, 2017. John's interview about the soda tax also aired on WHYY's *Morning Edition* program on June 16, 2017.

"Changes to PA Tort Law Not Coming Fast Enough, Attorneys Say," *Law360*, April 20, 2017

"Justices' 'Abnormal' Requests Pose Legislative Challenges," *The Legal Intelligencer*, October 7, 2017

"Attorneys Agree Ban on Citing Nonprecedential Opinions is a Hurdle," *The Legal Intelligencer*, September 1, 2016

"The Biggest PA Appeals Court Decisions So Far in 2016," *Law360*, August 4, 2016

"Appellate Courts Prepare to Transition Interim Appointees," *The Legal Intelligencer*, July 11, 2016

"Zimmer Win May Force Harder Look at Runaway Verdicts," *Law360*, June 10, 2016

"'When in Doubt, Appeal' in Consolidated Cases," *The Legal Intelligencer*, May 31, 2016

"Superior Court's 2016 Output Low on Civil Rulings," *The Legal Intelligencer*, May 27, 2016

"Revamped PA High Court Looks To Make Mark on Tort Law," *Law360*, February 4, 2016

"Supreme Court Orders Reargument in 26 Cases From 2015," *The Legal Intelligencer*, January 22, 2016.

"Intermediate Courts Must Weather Vacancies," *The Legal Intelligencer*, January 9, 2016

"Supreme Court Justice J. Michael Eakin Tearfully Apologizes, Defends Reputation in Porn Email Hearing," *Allentown Morning Call*, December 21, 2015

"Eakin, 'Bruno' and the State of Judicial Discipline in PA," *The Legal Intelligencer*, December 18, 2015

"JCB Faces Challenges in Proving Violations by Eakin," *The Legal Intelligencer*, December 11, 2015

"Litigants May Test High Court After Turnover," *Pennsylvania Law Weekly*, November 17, 2015

"Dems' PA High Court Sweep Could Shake Up Enviro, Tort Law," *Law360*, November 4, 2015

"Report: Supreme Court Should Defer to JCB on Eakin Emails," *The Legal Intelligencer*, November 3, 2015

"Zimmer Ruling Continues Pa. Justices' Pro-Plaintiff Trend," *Law360*, October 28, 2015

"Lawyers Say Discipline, Not Removal, Likely for Eakin," *Pennsylvania Law Weekly*, October 20, 2015

"Rekindled Email Scandal Tests State Supreme Court, Again," *The Legal Intelligencer*, October 6, 2015

"Saylor's Comments Raise More Questions Over AG Kane's Fate," *The Legal Intelligencer*, September 30, 2015

"Fee Sanctions Must Be Filed Soon After Final Order," *Pennsylvania Law Weekly*, September 28, 2015

"Rule Changes Clear Up Legal Gray Area in Post-Trial Motions," *Legal Intelligencer*, July 14, 2015

"Raising Pa. Supreme Court Output Easier Said Than Done?," *Pennsylvania Law Weekly*, March 31, 2015

"Police Owe No Duty to Unknown Passengers in Fleeing Car," *The Legal Intelligencer*, January 5, 2015

"Pennsylvania Cases To Watch In 2015," *Law360*, January 2, 2015

RESULTS

Appellate attorneys prevail in the Pennsylvania Supreme Court.

Appellate Advocacy and Post-Trial Practice

February 16, 2022

The decision, which reversed the trial court and Superior Court, reinstated a jury verdict in favor of our clients. Following a defense verdict, the trial court awarded a new trial based on a question posed by defense counsel, who was not a Marshall Dennehey attorney. The Superior Court affirmed the award of a new trial, but the Supreme Court reversed and reinstated the defense verdict on the basis that defense counsel's question was neither improper nor prejudicial.

\$40.2 million medical malpractice verdict vacated and remanded for new trial.

Birth and Catastrophic Injury Litigation

Appellate Advocacy and Post-Trial Practice

August 24, 2020

Our appellate attorneys succeeded in convincing the Pennsylvania Superior Court to vacate a \$40.2 million medical malpractice verdict and remand for a new trial. In its unanimous, precedential decision, the Superior Court ruled that the trial court had erroneously allowed plaintiffs' counsel to utilize hearsay medical literature as substantive evidence. The case involved a spinal cord birth injury and was tried in Delaware County.

Amicus Curiae Brief on Behalf of PDI and PADC

Appellate Advocacy and Post-Trial Practice

Automobile Liability

Insurance Services – Coverage and Bad Faith Litigation

June 12, 2020

Marshall Dennehey's appellate attorneys filed an *amicus curiae* brief on behalf of the Pennsylvania Defense Institute and Pennsylvania Association of Defense Counsel in a case pending in the Pennsylvania Superior Court that involved interpretation of a "regular use" exclusion that commonly appears in underinsured motorist coverage in automobile policies. The Superior Court enforced the exclusion, as PDI and PADC had requested. The plaintiff regularly used a company vehicle for his daily work. But one or two days before the accident, the specific vehicle he had been driving was taken

\$10 million wrongful death award reversed.

Appellate Advocacy and Post-Trial Practice

May 18, 2020

Marshall Dennehey succeeded in having the Pennsylvania Superior Court reverse, as excessive, a \$10 million wrongful death award. The jury had also awarded \$10 million in survival damages, but that award was reversed in post-trial motions.

Marshall Dennehey's Appellate Attorneys Convince Superior Court to Vacate \$39 Million Judgment Against Client.

Appellate Advocacy and Post-Trial Practice

August 24, 2018

Our appellate attorneys were retained shortly before trial. While driving our client's truck, an employee struck a car from behind that had stopped in the middle of the road after its hood flew open. The collision injured three members of a family and killed a six-year-old child. The Superior Court vacated the judgment and remanded for a new trial on the basis that the trial judge had improperly granted summary judgment to several vehicle repair shops, all of whom knew of but failed to repair the condition that made the car's hood fly open.

SIGNIFICANT REPRESENTATIVE MATTERS

The Pennsylvania Superior Court reversed a trial court's refusal to compel arbitration of a personal injury claim against a national online marketing platform. *Doe v. Groupon*, No. 2166 EDA 2022 (Pa. Super., July 25, 2022).

The United States District Court for the Middle District of Pennsylvania vacated a jury verdict for plaintiff and awarded a new trial to defendant. *Ramsey v. Buchanan Auto Park*, CIVIL ACTION NO. 1:16-CV-1879 (United States District Court for the Western District of Pennsylvania, March 7, 2022).

The Pennsylvania Supreme Court reversed the trial court and Superior Court and reinstated a

defense verdict for John's clients, a physician and his practice group who were improperly blamed for ending the career of an NFL player. *Steltz v. Meyers*, 10 EAP 2021, 2021 WL 6058099 (Pa. Dec. 22, 2021).

The Pennsylvania Superior Court vacated a \$40.2 million medical malpractice verdict and remanded for a new trial. *Charlton v. Troy*, 236 A.3d 22 (Pa. Super. 2020), reargument denied (Sept. 23, 2020), appeal denied, 251 A.3d 772 (Pa. 2021).

The Pennsylvania Superior Court overturned a \$10 million verdict against John's client. The original verdict was \$20 million, but John succeeded in having it reduced by \$10 million during post-trial motions. The remaining \$10 million was overturned on appeal. *Kimble v. Laser Spine Inst., LLC*, 2020 Pa. Super. Unpub. LEXIS 1216, *1 (Pa. Super., April 9, 2020).

The Pennsylvania Superior Court vacated a \$35 million judgment against John's client and remanded for a new trial. *Straw v. Golon et al.*, 187 A.3d 966 (Pa. Super., May 11, 2018), *appeal denied*, 2019 Pa.LEXIS 950 (February 15, 2019).

In a case in which John filed an amicus curiae brief on behalf of the Pennsylvania Defense Institute, the Pennsylvania Supreme Court unanimously reversed a Commonwealth Court decision quashing the defendant school district's appeal and remanding for consideration of the appeal on the merits. *Wolk v. School District of Lower Merion*, 197 A.3d 730 (Pa., December 11, 2018).

In a case in which John filed an amicus curiae brief for a group of 22 university-based experts on sex crimes, the Pennsylvania Supreme Court held by a vote of 5-1 that the retroactive registration of sex offenders under Pennsylvania's Megan's Law is unconstitutional. John's brief addressed extensive research showing that Megan's Law registries actually suppress the reporting and prosecution of sex crimes. *Commonwealth v. Muniz*, 2017 Pa. LEXIS 1682 (Pa., July 19, 2017).

The Pennsylvania Superior Court, sitting *en banc*, vacated a \$14.5 million verdict and remanded for a new trial based upon the erroneous admission of expert testimony and prejudicial statements by opposing counsel. *Nelson v. American Standard, et al.*, 2014 Pa. Super. 286 (Pa. Super., December 23, 2014)(*en banc*), appeal denied, (Pa., June 21, 2017).

In a case in which John filed an amicus curiae brief for the ASPCA, the Pennsylvania Commonwealth Court struck down regulations of the Department of Agriculture that permitted commercial dog breeders to restrict nursing mothers' access to exercise areas and use wire flooring in their cages. The Commonwealth Court held that the Department lacked authority to pass regulations that violated Pennsylvania's Dog Law. *Keith v. Commonwealth ex rel. Pa. Dep't of Agric.*, 151 A.3d 687, 689 (Pa. Cmwlth. 2016).

In a case in which John filed an amicus brief for the Pennsylvania Defense Institute and the Pennsylvania Chamber of Business and Industry, the Pennsylvania Supreme Court invalidated Philadelphia's mandatory consolidation of asbestos cases for trial. *Rost v. Ford Motor Co.*, 151 A.3d 1032 (Pa. 2016).

In a case in which John filed an amicus curiae brief for the Pennsylvania Defense Institute, the Pennsylvania Supreme Court unanimously upheld the reversal of a multimillion dollar verdict against an electric company on the basis that the plaintiff had not satisfied the "retained control" exception to the general rule of nonliability for independent contractors. *Nertavich v. PPL Electric Utilities, No. 21 EAP 2015* (Pa. 2015).

By a vote of 6-0, the Pennsylvania Supreme Court affirmed a judgment as a matter of law for John's clients, a Pennsylvania police department and a police officer, and held that police owe neither a statutory nor a common law duty to unknown passengers in fleeing vehicles. The plaintiff had been killed during a high speed pursuit. The Pennsylvania Fraternal Order of Police, The Pennsylvania Chiefs of Police Association, the County Commissioners Association of Pennsylvania, the Pennsylvania Municipal League, and the Pennsylvania Association of Boroughs joined together as amici curiae to support John's position in the Supreme Court. *Sellers v. Township of Abington et al.*, 2014 Pa. Lexis. 3463 (December 29, 2014).

By a vote of 7-0, the Pennsylvania Supreme Court reversed the Superior Court and the trial court and ruled that John's client, a general contractor, was immune from suit under Pennsylvania's statutory employer doctrine. The ruling nullified a large verdict against the general contractor. Twenty-one construction and insurance industry groups joined together as amici to support John's appeal to the Supreme Court. *Patton v. Worthington Associates*, 2014 Pa. LEXIS 788 (March 26, 2014).

The Pennsylvania Superior Court dismissed a highly-publicized death case filed against John's client in Pennsylvania based upon the doctrine of *forum non conveniens* under Pennsylvania's long-arm statute, 42 Pa.C.S. § 5322(e). *Jones v. Morey's Pier Inc.*, No. 2990 EDA 2012 (March 10,

2014)

In its second ruling in the case in two years, the Pennsylvania Supreme Court unanimously affirmed the Superior Court's reversal of a trial court finding that an insurer was not prejudiced by the insured's failure to report a phantom vehicle within the 30-day time limit set forth in the Motor Vehicle Financial Responsibility Law, 75 Pa.C.S.A. 1702. The Supreme Court held that an insured reasonably can be expected to alert the insurer of the phantom vehicle within a month's time and, while an insurer cannot deny coverage absent prejudice caused by late notice, showing such prejudice does not require proof of what the insurer would have found had timely notice been provided. *Vanderhoff v. Harleysville Insurance Co.*, 2013 Pa. Lexis 2581 (Pa. 2013).

In a case in which John filed an amicus curiae brief, the Pennsylvania Supreme Court reversed the Pennsylvania Superior Court and held that a physician has no duty to warn and advise third-party non-patients of a patient's communicable disease. *Seebold v. Prison Health Servs., Inc.*, 57 A.3d 1232 (Pa. 2013).

In a case of first impression, the Third Circuit Court of Appeals dismissed a putative class action against John's client, a national manufacturer of automobile anti-theft systems, and held that the client was not liable under the New Jersey Truth-in-Consumer Contract, Warranty and Notice Act, which permits a broad array of damages for violations of any federal or state consumer protection law, because its warranty did not violate any clearly established right under the Magnuson-Moss Warranty Act. *McGarvey v. Penske Auto Group, Inc., et al.*, 2012 U.S. App. Lexis 13450 (July 2, 2012).

In a decision reconciling two conflicting lines of cases, the Third Circuit Court of Appeals reversed a district court ruling that John's client, an insurer, had a duty to defend a lawsuit claiming that the intoxicated insured assaulted and attempted to kill the plaintiff before taking his own life. The central issue in the case was whether and to what extent allegations of intoxication can convert otherwise intentional conduct into an accident for purposes of securing insurance coverage. Addressing "tension" in the existing case law, the Court reasoned in its published decision that Pennsylvania public policy forbids the extension of insurance coverage to obviously intentional conduct and that allegations of intoxication can create a duty to defend only when the allegations indicate that the insured was so intoxicated that he lacked conscious awareness of his actions or lacked the ability to form intent. *State Farm Fire & Casualty Co v. The Estate of Thomas Mehlman*, 589 F.3d 105 (3d Cir., 2009).

The Pennsylvania Superior Court vacated a large verdict against John's client and remanded for a new trial on the basis that the jury should have been allowed to consider whether the plaintiff's claims were barred by the statute of limitations. *Urbach v. Kentile, Inc., et al.*, 915 A.2d 159 (Pa. Super. 2006), appeal denied, 2007 Pa. LEXIS 1351 (Pa. 2007).

The United States Court of Appeals for the Third Circuit reversed the judgment of the federal district court and ruled that an ordinance passed by John's client, a Pennsylvania municipality, did not violate the Equal Protection Clause of the United States Constitution. *Philadelphia Owners Association v. City of Philadelphia et al*, 57 Fed. Appx. 961 (3d Cir. 2003).

The Pennsylvania Supreme Court reversed two lower courts and awarded a judgment notwithstanding the verdict, erasing a substantial judgment against John's client, a professional corporation, on the basis that the plaintiff's *res ipsa loquitur* theory of liability was invalid as a matter of law. *Toogood v. Rogal*, 824 A.2d 1140 (Pa. 2003).

The Pennsylvania Superior Court reversed the ruling of the trial court and awarded a judgment notwithstanding the verdict, erasing a substantial judgment against John's client, a hospital, on the basis that, although the plaintiff had adduced some evidence to support her claims, the evidence was not sufficient to establish a *prima facie* case of negligence. *Van Zandt v. Holy Redeemer Hospital*, 806 A.2d 809 (Pa. 2002).