

ESTELLE KOKALES MCGRATH

SUPERVISOR, PROFESSIONAL LIABILITY - WESTERN PENNSYLVANIA
CHAIR, REAL ESTATE E&O LIABILITY PRACTICE GROUP
SHAREHOLDER



AREAS OF PRACTICE

Miscellaneous Professional
Liability
Public Entity & Civil Rights
Litigation
Employment Law
Real Estate E&O Liability
Insurance Agents & Brokers
Liability
Non-Profit D&O

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ADMISSIONS

Pennsylvania
2001

West Virginia
2011

U.S. District Court
Southern District of West
Virginia
2011

U.S. District Court
Western District of
Pennsylvania
2011

U.S. District Court
Northern District of West
Virginia
2017

EDUCATION

Widener University
School of Law (J.D., 2001)

Juniata College (B.A.,
1998)

HONORS & AWARDS

Pennsylvania Super
Lawyer Rising Star
2008, 2012-2016

ASSOCIATIONS & MEMBERSHIPS

Allegheny County Bar Association

Council on Litigation Management

FETA 2013-present

Pennsylvania Bar Association

Professional Liability Underwriting Society (PLUS) 2013-present

West Virginia Bar Association

YEAR JOINED

2002

OVERVIEW

Estelle is a Shareholder in the firm's Professional Liability Department and serves as *Supervisor of the Professional Liability Practice Group* in Western Pennsylvania, where she oversees the operations and strategic direction of the Professional Liability attorneys in the firm's Pittsburgh, Erie, Cincinnati, and Cleveland offices. Her practice focuses on various miscellaneous professional liability matters, including errors and omissions, directors and officers liability and management liability.

Insurance Agents & Brokers Liability. A significant portion of Estelle's practice is dedicated to defending errors and omissions claims against insurance agents and brokers. She represents agents and brokers of all sizes in both pre-suit matters and litigation and is skilled at managing the complex relationships among agents, insureds, and insurance carriers.

Real Estate E&O Liability. As *Chair of the firm's Real Estate Errors and Omissions Liability Practice Group*, Estelle represents real estate agents and brokers, appraisers, home inspectors, property management companies, homeowner associations, boards, and individual board members. Her work frequently involves detailed analysis of contracts, association governing documents, and the Uniform Planned Community Act.

Public Entity and Civil Rights. Estelle also maintains a robust practice in public entity and civil rights defense. She represents municipalities, school districts, universities, and other public entities, as well as police chiefs, police officers, constables, humane officers, volunteers, security personnel, and educators – including teachers, professors, and coaches – in a wide range of professional liability and civil rights matters.

Employment Law. In the employment law arena, Estelle counsels employers pre-suit and defends public entities and private companies in claims alleging discrimination and retaliation, in addition to whistleblower claims and allegations of sexual assault. She frequently appears before the EEOC and PHRC and continues representation through litigation in state and federal courts. She also previously served as a *pro bono* mediator for the Equal Employment Opportunity Commission.

Estelle also recently served a two-year term on the firm's Executive Committee Advisory Council, a select group of firm leaders dedicated to strengthening communication between the Executive Committee and

associates, special counsel, and junior shareholders.

THOUGHT LEADERSHIP

Protecting Real Estate Professionals with Renewed Strength and Expanded Reach

Philadelphia - Headquarters

Pittsburgh

Roseland

Real Estate E&O Liability

November 1, 2025

We are excited to announce the reinvigoration of our Real Estate Professional Liability defense team, servicing clients in eight states including Delaware, Florida, Maryland, New Jersey, New York, Ohio, Pennsylvania and West Virginia.

Lessons from Accountant's Age Discrimination Suit

Pittsburgh

Employment Law

March 1, 2024

The Customer Is Not Always Right: Considering the Customer's Conduct When Defending Insurance Brokers

Pittsburgh

Insurance Agents & Brokers Liability

November 1, 2023

Insurance brokers are usually sued when their customers find themselves without the necessary insurance to protect themselves from suit or damages. Legal Update for Insurance Agents & Brokers, November 2023 has been prepared for our readers by Marshall Dennehey.

EEOC Mediation: Five Things to Consider Before Participating

Pittsburgh

Employment Law

October 23, 2023

Top Ten Ways an Insurance Broker Can Avoid Liability

Pittsburgh

Insurance Agents & Brokers Liability

Real Estate E&O Liability

December 20, 2022

How does an Insurance Broker avoid liability? Legal Update for Insurance Agents & Brokers - December 2022, has been prepared for our readers by Marshall Dennehey.

CLASSES / SEMINARS TAUGHT

Anti-Harassment, Anti-Discrimination and Anti-Bullying /Workplace Conduct, Client Seminar, August 2025

Prohibition Against Discrimination and Harassment, Client Seminars, June 2025

Insurance Agent and Broker Webinar, Philadelphia Insurance Company, April 1, 2025

Risk Management for Insurance Agents & Brokers, Pittsburgh I-Day, October 8, 2024

How to Avoid Mistakes with Mismanagement of Life & Health Claims, Joint Webinar with National Association of Professional Agents, May 2023

Pandemic Coverage Litigation Update / Insurance Broker Best Practices, Client Webinar, September 2022

The Aftermath of the Pandemic For Carriers and Agents, Client Webinar, July 2021

Civil Litigation Updates in COVID-19 Litigation – Where Do We Stand One Year Later? Marshall Dennehey Webinar, May 2021

Supervisor Training on Discrimination, Client Seminar, June 2021

Impact of COVID-19 on Insurance Agents, Client Webinar, May 2021

Pandemic Coverage Litigation Update: Agent E & O Wars to Come, Client Webinar, March 2021

Pregnancy Discrimination, Client Seminar, March 2020

Promoting Diversity & Inclusion, Client Seminar, November 2019

Police: Handling Critical Incidents, Client Seminar, May 2018

PUBLISHED WORKS

"Lessons From Accountant's Age Discrimination Suit," *Pennsylvania CPA Journal*, Spring 2024

"EEOC Mediation: Five Things to Consider Before Participating," *The Legal Intelligencer*, Employment Law Supplement, October 2023

"Top 10 Ways an Insurance Broker Can Avoid Liability," National Association of Professional Agents, March 1, 2023

"Top Ten Ways an Insurance Broker Can Avoid Liability," *Legal Update for Insurance Agents & Brokers*, December 21, 2022

"HOA Living. It Is Not For Everyone.," *Defense Digest*, June 2021, Vol. 27, No. 3

"Ten Ways An Employer Can Reduce Their Chances of Being Sued for Discrimination," *PLUS Blog*, May 10, 2021

"HOA Living. It Is Not For Everyone.,," *Defense Digest*, March 2021, Vol. 27, No. 2

"House Bill No. 88 to be Signed by Governor Rendell," *What's Hot in Workers' Comp*, Volume 7, No. 12, December 2003

"Supreme Court Reverses *Caso* Decision," *What's Hot in Workers' Comp*, Volume 7, No. 12, December 2003

"Course of Employment Argument Saves Employer," *Defense Digest*, Volume 9, No. 2, June 2003

"Board's Decision Reversed Where Claimant Failed to Present Evidence," *Lawyers Journal*, The Journal of the Allegheny County Bar Association, June 27, 2003

"Borough of *Lewistown v. Pennsylvania Labor Relations Board*: The Supreme Court of Pennsylvania Holds Arbitration Award Final and Binding When Participating Joint Employer Failed to Appeal the Award," 9 WIDENER J. PUB. L 615 (2001).

RESULTS

Putative Class Action Lawsuit Dismissed

Employment Law

September 16, 2024

In a case where we represented a child care center, a federal district judge from the Western District of Pennsylvania granted our motion to dismiss with prejudice. The plaintiffs were nine minority employees who were involuntarily furloughed in the fall of 2020. They filed suit, alleging their employment was terminated in violation of Title VII of the Civil Rights Act, the Age Discrimination in Employment Act, the Family Medical Leave Act, the Pennsylvania Human Relations Act, the Wage Payment and Collection Law, and Section 1981 of the Civil Rights Act.

Lawsuit against insurance broker dismissed.

Insurance Agents & Brokers Liability

Insurance Services - Coverage & Bad Faith Litigation

August 13, 2021

In a case where we represented an insurance broker, a Federal District Judge from the Southern District of West Virginia granted our motion to dismiss and dismissed the suit in its entirety. The plaintiff was a women's fashion and accessory boutique. The suit arose from a dispute over the plaintiff's insurance coverage for damages it sustained while being ordered to close by West Virginia's COVID-19-related orders. The insurance carrier filed a motion to dismiss, and, thereafter, the plaintiff voluntarily dismissed the carrier.

Newspaper Beats Suit Alleging Employee Status

Workers' Compensation

Appellate Advocacy & Post-Trial Practice

April 16, 2021

The Pennsylvania Supreme Court denied a newspaper delivery person's petition for allowance of appeal on March 30, 2021. The claimant filed a claim petition in 2018, alleging that he suffered serious injuries to his right leg after slipping and falling on ice when he was delivering

newspapers. The newspaper asserted that the claimant was an independent contractor. The case was bifurcated to determine whether the claimant was an employee.

Lawsuit Against West Virginia Insurance Broker Dismissed.

Insurance Agents & Brokers Liability

March 22, 2021

In a case where we represented an insurance broker, a Federal District Judge from the Southern District of West Virginia granted our motion to dismiss and dismissed the suit in its entirety. The plaintiff was a women's fashion and accessory boutique. The suit arose from a dispute over the plaintiff's insurance coverage for damages it sustained while being ordered to close by West Virginia's COVID-19-related orders. The insurance carrier filed a motion to dismiss, and, thereafter, the plaintiff voluntarily dismissed the carrier.

SIGNIFICANT REPRESENTATIVE MATTERS

Summary Judgment For Child Care Center In Employment Case, November 19, 2025

We obtained summary judgment on behalf of a child care center in an employment discrimination action brought by two former employees. Plaintiffs alleged multiple claims arising from their termination, including age and race discrimination and unlawful interference with leave, in violation of the Age Discrimination in Employment Act (ADEA), the Pennsylvania Human Relations Act (PHRA), Title VII, Section 1981, and the Family and Medical Leave Act (FMLA). The Court agreed that Plaintiffs failed to establish a *prima facie* case of age discrimination, as they could not show they were replaced by sufficiently younger employees to support an inference of discriminatory animus. Plaintiffs likewise failed to meet their burden on their race discrimination claims, as they did not demonstrate that the employer retained similarly situated employees who were not within the protected class. Finally, the Court rejected Plaintiff's FMLA interference claim, finding that the employee voluntarily ended her leave and that the employer would have continued to honor her FMLA rights had she not done so. Accordingly, the Court held that Plaintiffs failed to present evidence to support their *prima facie* claims and granted summary judgment in favor of the employer.

Preliminary Objections Sustained in Employment Suit for Public Entity, October 5, 2023

Obtained dismissal of employment case for public entity. Plaintiff alleged a whistleblower claim and multiple wrongful discharge claims after being terminated. The Judge sustained the employer's preliminary objections, as the Court agreed that plaintiff failed to set forth any legally viable claims against her supervisor or prior employer.

Dismissal of Employment Discrimination Charge Before the Pennsylvania Human Relations Commission, August 24, 2023

A terminated employee filed a Charge of Discrimination with the Pennsylvania Human Relations Commission against her non-profit employer alleging age, sex and disability discrimination. We were able to prove through the investigation process that there was no discrimination. The Charge was accordingly dismissed.

Dismissal of Employment Discrimination Charge Before Pittsburgh Commission on Human Relations, August 14, 2023

A terminated employee filed a charge of discrimination with the Pittsburgh Commission on Human Relations against his non-profit employer alleging age and disability discrimination. We were able to prove through the investigation process that there was no age or disability discrimination. The Charge was accordingly dismissed.

Secured Voluntary Dismissal of Employment Suit for Public Entity, May 24, 2023

A terminated employee filed suit in the United States District Court for The Western District alleging violation of his First Amendment Rights as a result of retaliation based on political opposition and protected speech.

The employee also alleged a violation of the Equal Protection clause of the Fourteenth Amendment. After filing a Motion for Sanctions, the employee voluntarily dismissed the entire federal lawsuit.

Secured Voluntary Dismissal of Homeowners Association in Unjust Enrichment Suit, January 13, 2023

A contractor sued a homeowner's association for unjust enrichment because the builder failed to pay it for its services. After discussions with counsel, the contractor agreed to voluntarily withdraw said suit against the homeowner's association.

Motion to Dismiss Granted in Employment Suit for Public Entity, December 19, 2022

Secured dismissal of First Amendment count in the United States District Court for The Western District on behalf of public entity alleged to have retaliated against plaintiff for exercising her First Amendment rights to freedom of speech and to petition the government for redress of grievances. The public entity employer was entitled to dismissal of the First Amendment Count because plaintiff's complaints were only intended to protect her interests, not that of the public. The court declined to exercise supplemental jurisdiction over the remaining state law claims.

Summary Judgment Granted for Vocational School, May 10, 2021

Obtained summary judgment in state court on behalf of a vocational school alleged to have violated the plaintiff's procedural due process rights to continued enrollment. The plaintiff alleged sexual assault by an instructor and asserted that she was dismissed from the school after reporting the alleged assault. The school was entitled to judgment as a matter of law as the plaintiff was unable to prove that she had a recognized property right in continued enrollment in a commercial driver's license program.

Complaint Dismissed Against Homeowners' Association and Property Management Company, January 28, 2020

A homeowner, Plaintiff, filed suit in Butler County Court of Common Pleas. Plaintiff sued the Homeowners' Association, the Property Management Company, the Property Managers and individual board members alleging breach of contract, breach of fiduciary duty, gross negligence, intentional misrepresentation and negligent misrepresentation. After arguing preliminary objections to the 490-paragraph complaint, the Judge sustained the objections and dismissed the entire lawsuit with prejudice. The Judge also granted the Defendants' Motion for Sanctions against Plaintiff for failing to voluntarily dismiss the individual defendants from the suit.

Motion to Dismiss Granted for Housing Authority Alleged to Have Violated Civil Rights of Tenant and Guest, January 13, 2020

Plaintiffs filed a lawsuit in the United States District Court for the Southern District of West Virginia alleging that the housing authority and their employee violated state and federal laws. After filing a motion to dismiss all claims against the housing authority and their employee, the Judge granted the motion in its entirety dismissing three counts alleging violations of federal laws and four counts alleging violations of state laws.

Defeated Class Action Certification Against Property Management Company, November 20, 2019

Eight homeowners filed a class-action complaint in Washington County Court of Common Pleas avering claims of conversion and conspiracy against a property manager of their homeowners' association. The homeowners sought to certify a class-action lawsuit for all of the unit owners in the planned community. They accused the property manager of wrongfully converting unit owner association fees and conspiring to delay the "turn over" of their homeowners' association. After a lengthy and contentious discovery process, the Judge denied the class certification against the property management company.

Dismissal of Employee's Claims of Employee Status, August 2018

Claimant filed a claim petition alleging he was an employee of a newspaper. The case was bifurcated to determine whether the claimant was an employee versus an independent contractor. The Judge dismissed the claim petition finding that claimant was an independent contractor. The Judge's decision was upheld by the Workers' Compensation Appeal Board and the Commonwealth Court.

Voluntary Dismissal of Real Estate Agent from Lawsuit, November 16, 2017

A buyer sued multiple defendants, in Westmoreland County Court of Common Pleas, including the seller's real estate agent alleging claims of misrepresentation and unfair trade practices in Pennsylvania state court. During the discovery process, counsel was able to prove that the real estate agent was not liable. Thus, Plaintiff voluntarily agreed to discontinue the lawsuit as to the real estate agent.

Voluntary Dismissal of Borough and Chief of Police, March 17, 2017

A prior employee (plaintiff) filed a complaint in the United States District Court For The Western District of Pennsylvania alleging that the borough, the mayor and chief of police unlawfully discriminated against him, which forced him to resign. The employee set forth various federal and state claims including a violation of his substantive due process rights and intentional infliction of emotional distress. After deposing the plaintiff, he voluntarily agreed to dismiss the complaint with prejudice.

Employee Injuries Denied and Determined Fully Recovered, May 2016

A union president filed multiple petitions against the employer for accepted and unaccepted injuries. During a six-year battle, the employer was successful in its defenses before the workers' compensation judge, the workers' compensation appeal board, the Commonwealth Court and the Pennsylvania Supreme Court.

Employee's Claims for Wage Loss Denied, March 17, 2015

An employee, truck driver, filed a claim in West Virginia for injuries he suffered in the course of his employment. The Employer was successful in proving that claimant's disc injury was preexisting in nature, which was affirmed by the Supreme Court of Appeals.

Preliminary Injunction Denied, November 24, 2014

Plaintiff, a manufacturer and seller of refractory products, filed a Motion for Injunctive Relief to prohibit their prior employees from working with a new company, which also manufactured and sold refractory products. The Judge denied Plaintiff's Motion for Preliminary Injunctive Relief after a contentious, speedy discovery stage of depositions and other motions. The trial team was successful in protecting the defendants' new business from being shut down.