

AUDREY L. COPELAND

SHAREHOLDER



AREAS OF PRACTICE

Appellate Advocacy and Post-Trial Practice

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ADMISSIONS

Pennsylvania
1985

U.S. Court of Appeals 3rd
Circuit
1986

EDUCATION

William and Mary Law School
(J.D., 1983)

Colgate University (B.A., cum
laude, 1980)

HONORS & AWARDS

Pennsylvania Super Lawyer
2018-2020

OVERVIEW

Audrey Copeland, who joined the firm in 1986, is a member of the Post-Trial Appellate Advocacy Practice Group. She concentrates her practice in the state and federal appellate courts and has litigated matters involving a wide range of substantive and procedural issues including professional liability, civil rights claims, land use, coverage, medical malpractice, products liability, workers' compensation and premises liability.

THOUGHT LEADERSHIP

Did the Commonwealth Court Decide the Retroactive Effect of 'Protz'?

Harrisburg
Workers' Compensation
October 12, 2017

'Protz': Problems for Practitioners and Politicians

King of Prussia
Workers' Compensation
August 17, 2017

Special Workers' Compensation Alert - What Now? A Protz Primer

King of Prussia

Workers' Compensation

July 18, 2017

by Audrey J. Copeland, Esq. & Francis X. Wickersham, Esq. This Special Alert has been prepared by Marshall Dennehey Warner Coleman & Goggin to provide information on recent legal developments of interest to our readers.

On the Pulse...Marshall Dennehey Is Happy to Celebrate Our Recent Appellate Victories*

King of Prussia

Philadelphia - Headquarters

Appellate Advocacy and Post-Trial Practice

June 1, 2017

Defense Digest, Vol. 23, No. 2, June 2017

Land Use Litigation - Trends, Exposures and Moral Hazards

Roseland

King of Prussia

Public Entity and Civil Rights Litigation

September 1, 2016

By Howard Mankoff, Esq. and Audrey Copeland, Esq.* Key Points:

PUBLISHED WORKS

"Did the Commonwealth Court Decide the Retroactive Effect of 'Protz'? *Pennsylvania Law Weekly*, October 12, 2017

"Protz: Problems for Practitioners and Politicians," *Pennsylvania Law Weekly*, August 22, 2017

"Land Use Litigation - Trends, Exposures and Moral Hazards," *Defense Digest*, Vol. 22, No. 3, September 2016

"Running Afoul of the Appellate Rules," *The Pennsylvania Lawyer*, March-April, 2006

"On Line Is On Target: the Astonishing Utility of Computer Research," *Pittsburgh Legal Journal*, Vol. 121, No. 114, June, 1995

"The Empire Strikes Back: Payback for the Costs of Proving Yourself Right, " *Defense Digest*, July, 1995

"Pennsylvania Supreme Court Declines Review in Bad-Faith Case, " *Defense Digest*, July, 1995

"Hurry Up and Wait: Consequences for Defendants Under the New Appellate Rules, " *Defense Digest*, Summer, 1994

"High Court Reins in Repose Defense, " *Defense Digest*, Spring, 1994

"Services or Sales? Hospitals, Physicians and Pharmacists and 402A Liability, " *Defense Digest*, Spring, 1994

"Live Birth of a Non-Viable Fetus is Line of Demarcation in Wrongful Death and

Survival Act Cases, " *Defense Digest*, Winter 1993, 1994

"Third Circuit Applies "Inferred Intent" in Sexual Abuse of Minors Case, " *Defense Digest*, Fall, 1993

"Third Circuit Affirms Swimming Pool Judgment, " *Defense Digest*, Summer, 1993

"The Sexual Abuse of Minors: Coverage Issues, " *Defense Digest*, Spring, 1992

CLASSES/SEMINARS TAUGHT

In a Pickle: The Implications of Protz, Marshall Dennehey Workers' Compensation Seminar, October 19, 2017

RESULTS

Successful resolution of premises liability action.

General Liability

July 25, 2019

We successfully tried a premises liability action to a defense verdict in favor of a resident's association in the Chester County Court of Common Pleas, and also successfully defended against the plaintiff's appeal. The plaintiff, who was a community resident (formerly married to a unit owner but not an owner herself), claimed that she tripped and fell on a tree branch on common area steps at night as a result of a burned out PECO-owned lamp, and that the Association failed to ensure that the light was fixed.

Appellate Decision Renews Viability of "Course and Scope" Defense in Workers' Compensation

Appellate Advocacy and Post-Trial Practice

April 21, 2016

Marshall Dennehey's appellate and workers' compensation team successfully defended a major Pennsylvania transportation authority in the four-year litigation of a claim petition arising out of an altercation between the claimant, a bus driver, and a bus patron. The claim was first brought before the Workers' Compensation Judge and the Workers' Compensation Appeal Board, garnering a finding that the claimant was not in the course and scope of employment at the time of the altercation. Our appellate attorneys handled the appeal before the Commonwealth Court of

SIGNIFICANT REPRESENTATIVE MATTERS

Lighthouse Inst. for Evangelism, Inc. v. City of Long Branch, 510 F. 3d 253 (3d. Cir. 2007) was initiated by plaintiff, a self-described "church," to challenge the defendant City's zoning ordinance and superseding Redevelopment Plan. The Third Circuit affirmed the dismissal of the RLUIPA, 40 U.S.C. 2000cc et seq. claim as to the City's Redevelopment Plan holding that the "Equal Terms" provision of RLUIPA requires a plaintiff to show that it was treated less well than a secular organization that has a similar negative impact on the aims of the challenged land-use regulation and reasoning that the purported church was not treated on less than equal terms from secular entities, largely because of a New Jersey State statute which prohibits the issuance of a liquor license to establishments located within 200 feet of a church. The Court also affirmed the dismissal of the alleged church's Free Exercise claim as to

both the Redevelopment Plan and the original C-1 Ordinance because its religious exercise was not burdened by the fact that it was excluded from this area of the City. The Third Circuit reversed the grant of summary judgment for the City as to Lighthouse's RLUIPA Claim as to the original, since superseded C-1 Ordinance.

In *Essex Ins. Co. v. Kennedy*, 60 Fed. Appx. 367, 368 (3d Cir. 2003), the Assault and Battery exclusion in insurance policy applied and insurance company was not required to defend or indemnify its insured; additionally, the exclusion applied even though it appeared in an unsigned addendum, thus insurance company was entitled to summary judgment.

Micromanolis v. Woods Sch., Inc., 989 F.2d 696, 697 (3d Cir. 1993) concerned a plaintiff who climbed over a defendant property owner's fence and dove into an unlit "winterized" pool at night, without checking its water level, and who was rendered a quadriplegic. The Third Circuit held that even assuming that the plaintiff was a foreseeable trespasser, the property owner could not be charged with actual or constructive knowledge that a trespasser might dive into the unlit pool without checking the water level and could not be liable for wanton misconduct in failing to take steps to prevent the injuries caused by this activity.

Heath v. Workers' Comp. Appeal Bd. (Pa. Bd. of Prob. & Parole), 860 A.2d 25 (Pa. 2004), remanding to *Heath v. Workers' Comp. Appeal Bd. (Pa. Bd. of Prob. & Parole)*, 867 A.2d 776 (Pa. Cmwlth. 2005) concerned a claim for workers' compensation benefits for psychological injury brought by a claimant who alleged that she was sexually harassed by her supervisor. The Pennsylvania Supreme Court held that although the personal animus exception could not be raised *sua sponte*, a remand was required, whereupon the Commonwealth Court denied the claim due to the claimant's failure to provide the objective evidence necessary for corroboration.

In *Rossino v. Kovacs*, 718 A. 2d 755 (Pa. 1998) summary judgment was affirmed for the defendant property owners, who neither knew nor had reason to know that a police officer was going to enter their property in order to aid the execution of a search warrant, were not liable for the injuries sustained by the officer, who was not a licensee but rather a trespasser on the property under a privilege.

Bethea v. Phila. AFL-CIO Hosp. Ass'n, 871 A.2d 223 (Pa. Super. 2005), appeal denied, 934 A.2d 71 (Pa. 2007) involved the retroactive application of the MCARE Act and the Superior Court affirmed the trial judge's dismissal of the case. The Superior Court held that qualifications for a medical expert under the Act must be met even though the medical malpractice claim was filed prior to the enactment of the Act and the expert's testimony was heard after the enactment. The practical consequences of this ruling were that the expert, who did not possess a valid medical license at the time of trial, was barred from testifying and the plaintiff could not sustain her action.

In *Brown v. Philadelphia College of Osteopathic Med.*, 760 A.2d 863 (Pa. Super. 2000) the judgment on jury verdict for the plaintiffs vacated and case remanded for entry of judgment notwithstanding the verdict in favor of defendant-appellant PCOM, where plaintiffs failed to prove that defendant's conduct in erroneously informing plaintiff that her infant daughter had been born with syphilis was a proximate cause of the alleged harm or show the requisite physical impact to recover for emotional harm as to claims that the diagnosis caused the breakdown of the couples' marriage, physical violence, and loss of employment.

In *Armstrong v. W.C.A.B. (Haines and Kibblehouse)*, 931 A.2d 827 (Pa. Cmwlth. 2007) a work injury was deemed accepted by the employer by virtue of a notice of temporary compensation payable acknowledging the injury and a notice of compensation denial disputing length and extent of disability, but not the occurrence

or nature of the injury, pursuant to 77 Pa. Stat. Ann. 717.1.

Schachter v. Workers' Comp. Appeal Bd. (SPS Technologies), 910 A.2d 742 (Pa. Cmwlth. 2006) involved the effect of a disability rating. The Commonwealth Court held that the workers' compensation employer was not precluded from seeking termination of disability benefits by virtue of prior 6 % impairment rating and the reversal of the Judge's attorney's fees award was not error.

REPRESENTATIVE CASES

Ball v. Bayard Pump & Tank Co., 2013 Pa. LEXIS 1039 (Pa. May 28, 2013)

Krushaukus v. WCAB (General Motors), 56 A.3d 64 (Pa. Commw. Ct. 2012)

Papadoplos v. Schmidt, Ronca & Kramer, PC, 21 A.3d 1216 (Pa. Super. 2011)

Rossino v. Kovacs, 718 A.2d 755 (1998)

Nationwide Mutual Insurance Company v. Johnson, 704 A.2d 127 (1998)