

## T. KEVIN FITZPATRICK

SENIOR COUNSEL



### AREAS OF PRACTICE

Health Care Liability  
General Liability

### CONTACT INFO

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King of Prussia, PA 19406

### ADMISSIONS

Pennsylvania  
1984

U.S. District Court Eastern District  
of Pennsylvania  
1984

U.S. Court of Appeals 3rd Circuit  
1989

U.S. District Court Middle District  
of Pennsylvania  
1990

### EDUCATION

Loyola University New Orleans  
School of Law (J.D., 1984)

University of Scranton (B.S., 1981)

### HONORS & AWARDS

AV® Preeminent™ by Martindale-  
Hubbell®

Pennsylvania Super Lawyers  
2014, 2016-2023

### OVERVIEW

An experienced litigator, Kevin has focused his practice exclusively on the defense of health care professionals and institutions since 1984. From 2012 through 2022, Kevin served as a member of the firm's Board of Directors. During this time he was also the Director of the Health Care Department and played an active role in not only substantially increasing the number of attorneys in the Department, but also in expanding its geographical footprint.

Kevin provides defense representation in health care liability matters involving large exposure and complex cases. These cases involve the defense of physicians, hospitals, dentists, therapists, mental health professionals and other health care providers. Other areas of his practice have been devoted to significant general liability matters, including premises liability and casualty litigation.

Kevin estimates that since 1984 he has handled more than 500 health care liability matters. He has taken numerous cases to verdict, the majority of them resulting in defense awards. He has also had a significant number of cases taken to trial that resulted in client dismissals by stipulation or motion. In addition, Kevin has been involved with numerous ADR proceedings, including binding arbitrations, with successful results.

After receiving a Bachelor of Science degree in accounting from the University of Scranton in 1981, Kevin obtained his juris doctor from Loyola University in New Orleans in 1984. While in law school, Kevin was selected to serve on the moot court board. Prior to joining Marshall Dennehey in 1993, Kevin was a partner with a Philadelphia law firm, where he practiced for nine years.

Kevin has been awarded an AV® Preeminent™ rating by Martindale-Hubbell. Throughout his career, he has been active in the preparation of articles in his field of concentration and he has given numerous presentations to clients, including hospitals and insurance carriers, regarding the defense of health care liability cases and medical/legal related matters.

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## ASSOCIATIONS & MEMBERSHIPS

American Society of Hospital Risk Management

Central Behavioral Health, Solicitor (2003-2011)

Defense Research Institute

Montgomery County Bar Association

Pennsylvania Bar Association

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## YEAR JOINED

1993

## THOUGHT LEADERSHIP

### Medical Malpractice Venue Rule Overturned

**King of Prussia  
Health Care Liability  
Appellate Advocacy & 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 & Post-Trial Practice  
Behavioral Health Risk & Liability  
Birth & 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](#)

### On the Pulse...Marshall Dennehey Launches Four New Health Care Practice Groups In Response to Evolving Industry Trends

**Behavioral Health Risk & Liability  
Electronic Medical Record & Audit Trail Litigation  
Emergency Medical Services  
Telehealth & Telemedicine  
April 1, 2020**

In an effort to keep pace with our clients' Defense Digest, Vol. 26, No.

## CLASSES/SEMINARS TAUGHT

*The Pitfalls of Pressure Ulcer Litigation*, Marshall Dennehey Health Care and Health Law Seminar, November 9, 2017

*Case Evaluations and Jury Verdicts in Medical Professionals Liability Cases and Defending the Mental Health Case*, Allied World Assurance Company, October 2011

*Updates on the Medical Care Availability and Reduction of Error Act (MCARE), MCARE Fund & Fair Share Act*, OneBeacon Insurance Group, Connecticut, October 2011

*Current Legal Trends, Update on Tort Reform In Pennsylvania, Potential Civil Implications Arising From the New Medicare Requirements Under the Deficit Reduction Act Of 2005*, University of Scranton, Bi-annual Medical Alumni Symposium, March 2009

## PUBLISHED WORKS

"Back to the Future: A Lot at Stake for Both Sides in Venue Rule Change," *The Legal Intelligencer*, Medical Malpractice Supplement, April 9, 2019

"Will History Repeat Itself? Supreme Court of Pennsylvania Considers Rescission of Pivotal Medical Malpractice Venue Rule That Helped Resolve the State's Earlier Medical Malpractice Crisis," *MADvisor*, Winter 2019

"Psychiatric Records Can Be Subject To Discovery In Pennsylvania," *Defense Digest*, Vol. 16, No. 4, December 2010

"Disgruntled Lasik Surgery Plaintiff Not Precluded from Expressing Non-Defamatory Comments On Website," *Defense Digest*, Vol. 13, No. 3, September 2007

"New Trial Awarded Because of Improper Contact with Treating Physician," *Defense Digest*, Vol. 5, No. 5, 1999

"Informed Consent Not Limited To Physician Information," *Defense Digest*, Vol. 5, No. 3, 1999

"Current Status of Wrongful Use of Civil Proceedings," (co-author), *Defense Digest*, Vol. 4, No. 5, 1998

"HMO's ERISA Shield Pierced By Superior Court," *Defense Digest*, Vol. 2, No. 6, June 1996

"HMOs are Denied Peer Review Protection," *Defense Digest*, Vol. 1, No. 8, August 1995

## RESULTS

### Jury returns defense verdict for ER physician, hospital physician group and hospital.

#### Health Care Liability

**March 16, 2023**

The plaintiff filed a medical malpractice case, claiming the emergency room physician failed to appropriately treat her elevated blood sugar and groin abscess, leading to necrotizing fasciitis. The evidence presented to the jury supported the argument that the emergency room physician appropriately treated the small spontaneously draining groin abscess as presented, there were no signs of systemic infection, and the physician gave appropriate instructions for the plaintiff to return to the hospital if her symptoms changed or worsened.

#### SIGNIFICANT REPRESENTATIVE MATTERS

Obtained a defense verdict on behalf of a hospital client following a trial involving the death of an elderly patient who criticized emergency medicine care and internal medicine care regarding anticoagulation medications and inappropriate discharge. (2020)

Obtained a defense verdict in a trial involving allegations that a hospital client failed to reconcile a home Benzodiazepine medication which led to a grand mal seizure, multiple spinal compression fractures, chronic pain and lifelong care needs. (2016)

Obtained a defense verdict for a hospital client in a trial which alleged nursing negligence that resulted in a femur fracture and subsequent complications for a post hip replacement surgery patient. (2014)

Obtained a defense verdict for a hospital client against alleged failure to diagnose renal failure which resulted in the death of a man following knee surgery. (2012)

Obtained a defense verdict in a trial involving a severe shoulder dystocia birth injury case and defense of the treating obstetrician. (2008)

Obtained a defense verdict in a trial involving the death of an elderly patient following the administration of a narcotic medication by an emergency physician. (2006)

Obtained a defense verdict in a trial involving a urologist and failure to diagnose testicular cancer resulting in the death of a 49-year-old man. (2000)