

## GREGORY J. KELLEY

SHAREHOLDER



### AREAS OF PRACTICE

Architectural, Engineering and  
Construction Defect Litigation  
Product Liability  
General Liability

### CONTACT INFO

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### ADMISSIONS

New Jersey  
1993

Pennsylvania  
1993

U.S. District Court Eastern  
District of Pennsylvania  
1993

U.S. District Court of New  
Jersey  
1993

U.S. Court of Appeals 3rd  
Circuit  
2000

U.S. District Court Middle  
District of Pennsylvania  
2000

### OVERVIEW

Gregory concentrates the majority of his practice defending matters regarding architects and engineers, construction defect litigation and construction accidents. As well, he maintains a smaller portion of his practice in the defense of product liability claims. He splits his time between our King of Prussia, Pennsylvania, and Mount Laurel, New Jersey, offices.

Formerly a litigation specialist for a large casualty insurer in Pennsylvania and Delaware, Gregory was responsible for and developed experience in the evaluation, negotiation and defense strategy for catastrophic personal injury and property damage claims. He also served as an instructor for in-house claims professional seminars on topics of Case Evaluation & Negotiation and Insurance Coverage.

Prior to joining Marshall Dennehey Warner Coleman & Goggin in 2004, Gregory was with a defense firm where his practice involved defending personal injury and property damage matters, focusing on architect and engineer professional liability and construction claims, products, general, premises liability claims and insurance coverage matters.

In 1982, Gregory graduated from Villanova University with a Bachelor of Science degree. While working as an insurance claims professional, he earned his *juris doctor* from Widener University School of Law in 1992 and is admitted to practice in Pennsylvania and New Jersey.

### THOUGHT LEADERSHIP

# **Stating a Claim for Negligent Misrepresentation for a Design Professional's Supply of Information**

**King of Prussia**

**Architectural, Engineering and Construction Defect Litigation**

**June 1, 2016**

By Gregory J. Kelley, Esq.\* The False Information Need Not Be Expressly Misrepresented, and How Specific the Allegations Must Be Remains Subjective  
Defense Digest, Vol. 22, No. 2, June 2016

## **The Certificate of Merit rule applies only to claims brought by a client against a licensed professional**

**Architectural, Engineering and Construction Defect Litigation**

**July 6, 2015**

Pennsylvania Rule of Civil Procedure 1042.1 et seq., the "Professional Liability Actions" Chapter of Rules, adopted in 2004, provides for the filing of a Certificate of Merit in support of a professional liability claim. Case Law Alerts, 3rd Quarter, July 2015

## **Where an owner settles a contractor's claims and assigns its rights against the architect, the contractor is not barred from pursuing the claims if the contractor was "not a stranger" to the claims at issue.**

**Architectural, Engineering and Construction Defect Litigation**

**January 11, 2013**

The contractor sued the owner school district for delay claims, and the owner joined the architect. The owner settled with the contractor and assigned its rights against the architect to the contractor. Case Law Alert, 1st Quarter 2013

## **General contractor's inclusion of subcontractor's bid in GC's bid is not acceptance of subcontractor's bid and does not form contract between subcontractor and GC or client.**

**Architectural, Engineering and Construction Defect Litigation**

**July 1, 2012**

The subcontractor (SC) gave a bid to a general contractor (GC) for a municipal authority project. GC included SC's bid within its own, and the authority awarded the contract to GC. Case Law Alert, 3rd Qtr 2012, July

## **A contract for construction with an owner is a prerequisite under Pennsylvania's Contractor and Subcontractor Payment Act, and design professionals may qualify as "contractors" under certain circumstances.**

**Architectural, Engineering and Construction Defect Litigation**

**January 1, 2012**

An architectural firm entered into an oral contract for services to help determine the feasibility of a project. The architectural firm entered into a second oral contract for behind-the-scenes assistance to the owner for planning and zoning. Case Law Alert, 1st Qtr 2012

## **CLASSES/SEMINARS TAUGHT**

*Liability Concerns for Architects, Engineers and Construction Professionals:*

## **PUBLISHED WORKS**

“Stating a Claim for Negligent Misrepresentation for a Design Professional’s Supply of Information,” *Defense Digest*, Vol. 22, No. 2, June 2016

*Case Law Alerts*, Regular Contributor, 2010-present

“The Federal Courts Require Complaints To State A Factually 'Plausible' Claim, And Factually 'Conceivable' (Speculative) Claims May Be Dismissed In The Pleadings Stage,” *Defense Digest*, Vol. 14, No. 1, March 2008

“New Jersey: Parental Immunity For 'Negligent' Failure To Supervise Claim Calls For Case-By-Case Analysis Of Defense Strategy, Liability Evaluation And Coverage Determinations,” *Defense Digest*, Vol. 12, No. 1, March 2006

## **SIGNIFICANT REPRESENTATIVE MATTERS**

Mediated a favorable settlement of less than \$1M for an Architectural firm in a high rise to condominium conversion project wherein the Owner claimed damages in excess of \$4.5M for delays and cost increases caused by Architect errors & omissions and negligent construction administration. The result was obtained at mediation in part due to use of document management and search technology through which it was argued that the results showed that Owner had intentionally withheld or destroyed some pertinent documents that were likely favorable to Architect and went against Owner's credibility.

Mediated a favorable settlement for a large Architectural firm that involved construction of an addition to a county prison. The County claimed \$4.6M in damages for delays and cost increases, mostly due to negligent construction administration. The Architectural firm had formed a joint venture. Negotiations resulted in a \$2M settlement, to which our client only contributed \$300K as we were able to show that the substantial majority of the damages claimed pertained to the scope of activities performed by the joint venture partner.

Successfully obtained summary judgment dismissal of an architect on the Statute of Repose in a deck collapse/personal injury action where the settlement demand was \$2.5 million.

Mediated a favorable settlement for an engineering firm in litigation that involved construction defect and delay claims in multiple projects for a chain store owner. Owner's demand against the contractor and three design professionals was \$10, million. After two days of mediation, the case settled for an amount well in excess of \$2 million, but our client contributed only \$170,000.

Mediated a favorable settlement for an architect in a design error/construction delay/abandonment claim wherein a \$1.3 million claim was resolved for \$400,000 without litigation and without discovery expenses being incurred.

Obtained a voluntary dismissal of an engineer in a catastrophic personal injury (quadriplegia) construction accident litigation in Philadelphia which has an exposure in excess of \$15 million.

Obtained dismissal of a township engineer in a double fatality construction accident litigation wherein two workers died while installing new sewer lines in a residential development. Township engineer was joined on theory that it was responsible for

design and oversight of construction of the excavated areas occupied by the workers when they were asphyxiated.