

JAMES A. MCGOVERN

SHAREHOLDER



AREAS OF PRACTICE

Securities and Investments Professional Liability
Architectural, Engineering and Construction Defect Litigation
Professional Liability
Insurance Agents & Brokers Liability
Commercial Litigation

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ADMISSIONS

Pennsylvania
1991

Virginia
1990

District of Columbia
1992

U.S. Supreme Court
2002

EDUCATION

The George Washington
University Law School (J.D.,
1990)

University of Pittsburgh (B.S.,
magna cum laude, 1987)

OVERVIEW

James devotes the majority of his practice to the defense of attorneys, accountants, brokers, broker-dealers, investment firms, insurance agents, real estate agents, architects, engineers and other professionals in professional negligence claims. He also counsels and represents clients with regard to regulatory matters with self-regulatory organizations and state securities and insurance commissions. He regularly represents clients in state and federal court proceedings and at Financial Industry Regulatory Authority (FINRA) arbitration hearings and mediations throughout the country. James has defended several matters involving directors and officers liability, including claims for breach of fiduciary duties, negligence, misfeasance and shareholder derivative suits. He also has commercial litigation experience involving mergers and acquisitions, non-compete agreements, franchise agreements and contractual disputes.

James has tried numerous cases to jury verdicts and arbitration panel awards and has successfully argued several cases in the appellate courts of Pennsylvania.

Following law school, James served as a law clerk to The Honorable Robert I. Richter of the Superior Court of the District of Columbia and subsequently lived and practiced in Virginia and the District of Columbia before returning to Pittsburgh.

James has been awarded an AV® Preeminent™ by Martindale-Hubbell, which identifies a lawyer with very high to preeminent legal ability, and is a reflection of his knowledge, experience, integrity and overall professional excellence.

THOUGHT LEADERSHIP

Rollover Verboten? Insurance Agents May Be at Risk for Recommending 401(k) Rollovers to Fund the Purchase of an Insurance Policy or Annuity

Pittsburgh

Insurance Agents & Brokers Liability

November 1, 2019

Edited by Timothy G. Ventura, Esq. The material in this law alert has been prepared for our readers by Marshall Dennehey Warner Coleman & Goggin.

Pennsylvania Imposes Additional Requirements on Insurance Agents and Companies Regarding the Sale or Replacement of Annuities

Pittsburgh

Insurance Agents & Brokers Liability

September 24, 2018

Edited by Timothy G. The material in this law alert has been prepared for our readers by Marshall Dennehey Warner Coleman & Goggin.

Legal Update for Securities

Securities and Investments Professional Liability

March 20, 2015

Recent Litigation Victories The material in this law alert has been prepared for our readers by Marshall Dennehey Warner Coleman & Goggin.

PUBLISHED WORKS

Legal Updates for Insurance Agents & Brokers, Regular Contributor, 2018-present

"Pennsylvania Imposes Additional Requirements on Insurance Agents and Companies Regarding the Sale or Replacement of Annuities," *Legal Updates for Insurance Agents & Brokers*, September 24, 2018

RESULTS

Successful defense of land surveyor in property line dispute.

Professional Liability

July 25, 2019

We were successful in having a land surveyor dismissed on preliminary objections on the grounds of lack of privity with the plaintiff. The litigation involved a property line dispute between two neighbors. The neighbor who retained our client to conduct a survey relied upon that survey and proceeded to tear out a portion of his neighbor's property to expand his own driveway. The survey miscalculated the boundary line by 12 inches. The neighbor whose property was infringed upon sued the other neighbor and the surveyor.

Engineering Firm Prevails in Arbitration Proceeding Over Retaining Wall Design.

Architectural, Engineering and Construction Defect Litigation

April 11, 2019

The defense prevailed in an arbitration proceeding on behalf of an engineering firm that had designed a 30-foot-high segmented retaining wall at a craft brewery in Pittsburgh. During construction, the supplier of the blocks used to construct the wall raised issues with the engineer's design. The project owner, block supplier, and general contractor jointly retained another engineer to review the original design, and it was alleged the original design was faulty in several respects. Our client refuted the criticisms of his design, but agreed to redesign the wall.

Successful Representation of Insurance Agent.

Insurance Agents & Brokers Liability

August 24, 2018

We successfully represented an insurance agent in an investigation conducted by the Pennsylvania Insurance Department. The agent's clients filed a complaint in which they alleged the agent failed to advise them of a waiver of premiums rider on the husband's life insurance policy in the event of a disability of the insured. As a result, they claimed they had incurred ten years' of premiums expenses that could have been waived. The investigator concluded that the claim was without merit and that no action would be taken by the Insurance Department against the agent.

Summary Judgment for Insurance Agent in Fraud and Negligence Action

Insurance Agents & Brokers Liability

December 1, 2017

Obtained summary judgment in Allegheny County, Pennsylvania on behalf of a life insurance agent in a fraud and negligence action. Our client was alleged to have forged certain policy documents in an effort to "churn" the existing policies the plaintiffs possessed into additional policies rather than increase the amount of coverage of the original policies. The plaintiffs failed to establish any evidence whatsoever that any of the signatures were forged.

Financial Advisor Exonerated in FINRA Arbitration

Securities and Investments Professional Liability

August 30, 2017

Received a defense decision in a Financial Industry Regulatory Authority (FINRA) binding arbitration proceeding conducted in Pittsburgh. The 78-year-old investor sued her financial advisor for breach of contract and breach of fiduciary duty, alleging that he failed to properly invest the cash in her IRA account, resulting in a rate of return that was much lower than allegedly promised by the advisor.

SIGNIFICANT REPRESENTATIVE MATTERS

Successfully defended an architectural firm in settlement of a multiple party case in which a university student housing building under construction caught fire due to

cigarettes purportedly being disposed of in a construction trash chute and also due to alleged building code violations. The fire spread to an adjacent six-block city area, causing extensive property damage and the alleged death of a neighborhood resident.

Successfully defended an architect in the settlement of a multiple party claim involving the alleged improper design and construction of a wheelchair access ramp in a former warehouse building being converted to alternative usage. The plaintiff allegedly tripped and fell on the ramp causing quadriplegic injuries.

Successful on a motion to dismiss in a case asserting a breach of implied warranty of workmanship against an architect involving a construction project wherein the property on which the buildings designed by the architect had been previously undermined for coal.

Successful in obtaining a dismissal of an engineering malpractice claim due to Plaintiff's failure to file a certificate of merit. Prevailed against Plaintiff's argument that a certificate of merit was not necessary because the claim was based on a theory of negligent misrepresentation and not professional malpractice.

Successful on a motion to dismiss in a claim against an attorney for the alleged negligent drafting of a will wherein the decedent's two adult children received disproportionate distributions. (Affirmed on appeal.)

Successful in obtaining summary judgment in a case of first impression in favor of an insurance agent in a case involving alleged improprieties regarding uninsured/underinsured motorists' waiver forms.

Successful in obtaining summary judgment in favor of a county mental health agency in a case involving an involuntary psychiatric commitment of a hospital patient who threatened to mutilate herself if she was not given the medical treatment of her choice. (Affirmed on appeal.)

Successful in obtaining a dismissal in a case of first impression against an investment professional in a civil action brought under the Pennsylvania Identity Theft Statute involving allegations of forged and unauthorized annuity withdrawals by the annuitant's daughter.

Successful in obtaining a jury verdict in a products liability claim brought against the manufacturer of a forging hammer whose operator lost a finger while misusing the hammer.

Successful in obtaining a judgment notwithstanding the jury verdict in favor of a county in a civil rights claim brought by a tax assessment advisor who represented clients in tax assessment hearings conducted by the county commissioners.

Successful in obtaining numerous arbitration awards in favor of brokers and brokerage firms accused of negligent investment advice.

Successful in obtaining summary judgment in a case of first impression in a claim brought against a pesticide applicator pursuant to the Federal Insecticide, Fungicide and Rodenticide Act. (Affirmed on appeal.)

Successful in obtaining summary judgment in a case against a brokerage firm in which it was alleged that over 30 plaintiffs were sold worthless promissory notes by a former registered representative of the firm. (Affirmed on appeal.)

