

Joshua W. Brownlie

Associate

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Joshua is a member of the Professional Liability Department and specializes in appellate advocacy, post-trial motions, and appeals. His practice extends to civil rights and public entity litigation, employment law, school leaders' liability, and healthcare matters. Before joining Marshall Dennehey, Joshua clerked for Pennsylvania Supreme Court Justice Daniel D. McCaffery during his tenure on the Superior Court of Pennsylvania. There, Joshua engaged in the resolution of complex civil and criminal matters at the appellate level. Prior to serving in chambers, Joshua participated in Marshall Dennehey's Summer Associate Program and interned for Rodney A. Smolla, former Dean of Widener University School of Law. As an intern, Joshua was responsible for revising and analyzing common law jurisdictional developments in First Amendment jurisprudence for the legal treatise, "Smolla & Nimmer on Freedom of Speech."

In 2021, Joshua earned his Juris Doctor, cum laude, from Widener University School of Law. During law school, Joshua was regularly recognized on the Dean's List and held senior positions on various honor societies, such as the *Widener Law Review*, the Transactional Law Honor Society, and the Moot Court Honor Society. During his tenure on the executive committee of the Moot Court Honor Society, Joshua earned top marks in many interscholastic, appellate moot court competitions, including top oralist in the 2021 Touro Law Center's National Moot Court Competition on Law and Religion. Joshua's interscholastic achievements led to his induction into the Order of the Barristers, an honorary organization for law students and practicing lawyers who demonstrate exceptional skill in trial advocacy, oral advocacy, and brief writing.

Joshua is deeply committed to fostering legal skills and advancing the professional development of future attorneys. He is an adjunct professor of Legal Methods at Widener University School of Law and volunteers his time as a coach for Widener's Moot Court Honor Society.

Practices

- Appellate Advocacy & Post-Trial Practice
- Public Entity & Civil Rights Litigation
- Employment Law
- School Leaders' Liability
- Medical Malpractice

Education

- Widener University Delaware Law School (J.D., *cum laude*, 2021)
- Rowan University (B.A., *summa cum laude*, 2018)

Admissions

- Pennsylvania, 2021
- U.S. District Court Eastern District of Pennsylvania, 2021
- U.S. Court of Appeals 3rd Circuit, 2022

Honors & Awards

- Pennsylvania Super Lawyers Rising Star (2024-2026)

Associations & Memberships

- Federal Bar Association
- Order of the Barristers
- Pennsylvania Bar Association
- Philadelphia Bar Association
- The Bar Association of the Third Federal Circuit

Classes/Seminars Taught

- *Competencies for LGBTQ Clinical Practices: LGBTQ Rights and Their Progeny*, Chestnut Hill College Master's Program, 2020; 2021.

Published Works

- "Handing Over the Public's Purse: Political Subdivision Employees, Indemnification and Assignments," *Defense Digest*, Vol. 27, No. 5, December 2021

Results

Summary Judgment Secured in a Section 1983 Substantive Due Process Case

We obtained summary judgment in a Section 1983 substantive due process claim involving a Philadelphia police officer. The officer had taken a photo of the plaintiff's son after he attempted suicide by jumping off a bridge, and the photo was later circulated on social media. The plaintiff alleged that circulation of the photo violated her substantive due process privacy rights, and she also asserted a claim for intentional infliction of emotional distress. One week before trial began, the Honorable Mark Kearney, U.S. District Court for the Eastern District of Pennsylvania, held, although the plaintiff possessed a viable privacy right, that right was not clearly established at the time of the incident; therefore, the court granted qualified immunity to the officer. Additionally, the court held the plaintiff failed to present competent expert opinion evidence establishing her emotional distress and, therefore, dismissed the state tort claim for intentional

infliction of emotional distress.

Defense Verdict Secured in Section 1983 Malicious Prosecution Trial

We secured a defense verdict in a Section 1983 malicious prosecution trial in the U.S. District Court for the Eastern District of Pennsylvania. The plaintiff alleged that our client's law enforcement officers falsified evidence and testimony in order to maliciously prosecute him for conspiracy for engaging in the illegal sale of narcotics. We successfully contended that the former narcotics detective, who corroborated the plaintiff's complaint, was lying, and called various members of our client's narcotics unit to testify about the facts of the investigation.

Appellate Court Affirms District Court Order Dismissing a Federal Civil Rights Lawsuit

A unanimous panel of the the Third Circuit affirmed an order of the U.S.E.D. Pa., which had granted a Rule 12 motion to dismiss in favor of a former Assistant District Attorney. The plaintiff had plead guilty to murder and other offenses in 1990 after shooting a man in the back four times. In 1993, the plaintiff filed a petition under Pennsylvania's Post Conviction Relief Act (PCRA), claiming ineffective assistance of counsel. The crux of his argument being his counsel failed to object when the court incorrectly stated the meaning of life imprisonment. According to the original transcript, the court said, "Life *implies* 17 ½ to 35 years." Our client, a former Assistant District Attorney, worked on the opposition to the plaintiff's PCRA petition and contacted the court stenographer about that line in the transcript. The stenographer admitted the transcripts contained an error and filed a certified copy of the corrected page to reflect that the court said, "Life *plus* 17 ½ to 35 years." The PCRA petition was denied.

Then, in 2019, the plaintiff obtained a handwritten note by our client which referenced needing a "new and improved version" of the transcript. The plaintiff filed another PCRA petition. The current administration of the Philadelphia District Attorney's Office and the plaintiff reached a stipulated agreement to resolve the case. The plaintiff's 1990 guilty plea was vacated, he re-pleaded to third-degree murder and robbery, and was sentenced to 17 ½ to 35 years' imprisonment, and was then released for time served.

The plaintiff filed a lawsuit against our client under 42 U.S.C. § 1983, arguing that our client's ex parte communication with the stenographer violated his right to due process and to a jury trial. We moved for dismissal pursuant to Rule 12(b)(6), arguing our client's actions were protected by absolute prosecutorial immunity and qualified immunity. The District Court agreed and dismissed the lawsuit with prejudice. The plaintiff appealed. Writing for a unanimous panel, the Judge concluded the claims asserted by the plaintiff "lack merit[.]" Affirmance was decided solely on the issue of qualified immunity. The court concluded the claims were "fatally deficient" because: (1) the plaintiff defined his right to due process and jury trial at too high a level of generality; and (2) the plaintiff failed to cite authority establishing that his rights to due process and a jury trial entitled him to protection from our client's ex parte communication with a court stenographer. Thus, our

client was entitled to qualified immunity, as argued by us in the District Court.

District court order dismissing a federal civil rights lawsuit affirmed.

A panel of the the Third Circuit unanimously affirmed an order of the U.S.D.C. for the District of Delaware which granted a Rule 12 motion to dismiss in favor of law enforcement officials. The plaintiff filed suit under Section 1983, seeking damages for the alleged violation of his Fourth and Fourteenth Amendment rights following a traffic stop, for driving under the influence of alcohol, and the lawful seizure of blood alcohol evidence. The officials moved to dismiss the complaint pursuant to Federal Rule of Civil Procedure 12(b)(6), arguing the Fourth and Fourteenth Amendment claims were barred by the claim accrual rule in Heck v. Humphrey, 512 U.S. 477 (1994). The district court agreed and dismissed the lawsuit. The plaintiff appealed.

Counsel argued on appeal that the plaintiff was convicted of “reckless driving” and was subject to the “alcohol-related” penalty provision of Delaware’s reckless driving statute. As such, the imposition of the plaintiff’s sentence requires his willful or wanton disregard for safety of others be related to alcohol use. The Third Circuit agreed. In affirming, the court explained, “[c]onsidering that alcohol involvement was the basis for the alcohol-related penalty provision and considering the evidence obtained through the challenged search was integral to establishing the involvement of alcohol, any error in the search would not be harmless.” Because the plaintiff failed to show his sentence has been set aside, the court agreed that the plaintiff cannot bring his claims at this time.

Township immune from liability pursuant to Pennsylvania’s Political Subdivision Tort Claims Act.

We obtained summary judgment in favor of a township client. The Court of Common Pleas of Bucks County entered judgment as a matter of law in favor of the township, dismissing with prejudice the plaintiff’s negligence and negligent supervision claims. Counsel argued, and the court agreed, the township was immune from liability pursuant to Pennsylvania’s Political Subdivision Tort Claims Act, 42 Pa. C.S. § 8541 et. seq.

Township granted Rule 12 motion to dismiss.

We successfully obtained from the U.S. Court of Appeals for the Third Circuit affirmance of a district court order granting a township’s Rule 12 motion to dismiss. The panel agreed with the appellees and concluded the District Court exercised proper discretion in dismissing the complaint since the plaintiffs failed to assert under 42 U.S.C. § 1983 plausible claims of federal constitutional violations.

Federal civil rights claims against former city Assistant District Attorney dismissed.

We successfully obtained dismissal with prejudice of federal civil rights claims brought against an Assistant District Attorney. The plaintiff alleged he entered an involuntary guilty plea to murder following a defective plea colloquy with a judge, who now sits on the Third Circuit Court of Appeals. The plaintiff alleged the transcript evidence of the colloquy was improperly altered by our client during his first post-conviction collateral proceeding,

thereby resulting in violations of his Fifth, Sixth and Fourteenth Amendment rights. While recognizing the “quite sparing” application of common law immunities in Section 1983 litigation, the court accepted, and adopted, our argument that the Assistant DA was entitled to both absolute prosecutorial immunity and qualified immunity for his evaluation of the relied-upon transcript evidence. “Because nothing [Plaintiff] could allege would change this outcome, the Court’s dismissal [was] with prejudice.”

Defense verdict in Section 1983 malicious prosecution jury trial.

We obtained a defense verdict in the U.S. District Court for the Eastern District of Pennsylvania in a Section 1983 malicious prosecution case. The plaintiff alleged that city narcotics officers planted drugs and stole money from her and then falsely charged her with possession and possession with intent to distribute crack cocaine. The criminal charges against her were dismissed following a Post Conviction Relief Act hearing.

Thought Leadership

July 1, 2023

The en banc Third Circuit concludes citizens with prior felony convictions for welfare fraud are among ‘the people’ protected by the Second Amendment.

April 1, 2023

Following Commonwealth v. Alexander, Article I, Section 8 of the Pennsylvania Constitution continues to permit warrantless “inventory searches” of impounded automobiles.

January 3, 2022

Due Process Clause of 14th Amendment does not require municipalities provide pre-termination hearing where employee’s position is eliminated following good faith government reorganization.

January 3, 2022

When political subdivision installs lighting as part of real estate, sovereign immunity is waived if agency’s negligent installation and design creates dangerous condition.

January 3, 2022

Exculpatory release granting municipal immunity for violation of duty to maintain public roadways violated public policy.

December 1, 2021

Handing Over the Public’s Purse: Political Subdivision Employees, Indemnification and Assignments

