

# Kimberly A. House

Shareholder

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Philadelphia – 215.575.2867



Kim is a strong advocate for her insured and self-insured clients who are facing serious and significant claims. Kim also has extensive experience in monitoring trials for excess carriers and participating in those trials when necessary. As a member of both our Casualty and Appellate Departments, Kim has valuable experience in all aspects of litigation from pleadings through the appellate process. She has participated both as trial counsel and as appellate counsel in multiple trials involving plaintiffs who were catastrophically injured.

Kim represents clients in matters involving premises, product and automobile liability. She has experience defending an elevator/escalator manufacturer against claims of product liability including both design defect, manufacturing defect, as well as claims of negligent inspection/maintenance. Additionally, Kim has handled several construction defect cases in single family homes or condominium complexes involving water intrusion cases resulting in property damage and mold.

Kim understands that strong practice management is a key component to favorable resolutions and positive outcomes for her clients. She is experienced in representing clients in both state and federal courts throughout Pennsylvania and New Jersey, and she is also licensed to practice law in North Carolina and South Carolina. Kim is a strong mentor of young associates at the firm, and she believes that a collaborative approach to cases is an effective way to ensure that new ideas and defenses are being explored to the fullest extent.

Prior to joining the firm, Kim was an associate in the catastrophic loss department of a Philadelphia defense firm. While there, she gained valuable experience handling high-value cases for excess insurers. This experience included independently working up files and preparing cases for trial, often on short notice, in support of her litigation team. Kim also monitored litigation and trials for a variety of insurers. Kim also oversaw and handled cases for her own clients consisting of contractors and building product manufacturers.

## Practices

- Appellate Advocacy & Post-Trial Practice
- Premises & Retail Liability
- Product Liability
- Automobile Liability
- First-Party Property

## Education

- Wake Forest University School of Law (J.D., 2008)
- Virginia Polytechnic Institute and State University (B.A., *cum laude*, 2004)

## Admissions

- Pennsylvania, 2012
- New Jersey, 2012
- North Carolina, 2008
- South Carolina, 2011
- U.S. District Court Eastern District of Pennsylvania, 2013
- U.S. District Court District of New Jersey, 2015
- U.S. District Court Western District of Michigan, 2019
- U.S. District Court Middle District of North Carolina, 2008
- U.S. District Court Eastern District of North Carolina, 2010
- U.S. District Court District of South Carolina, 2011

## Honors & Awards

- Pennsylvania Super Lawyers Rising Star (2016-2023)

Super Lawyers list is issued by Thompson Reuters. A description of the selection methodology can be found [here](#). No aspect of this advertisement has been approved by the Supreme Court of New Jersey.

## Significant Representative Matters

- Successfully defended an appeal from a jury verdict previously secured by Aaron Moore and Alesia Sulock (Philadelphia) in favor of the firm's client in a legal malpractice case. The plaintiffs initially asserted multiple tort claims and a claim under the Unfair Trade Practices and Consumer Protection Law, which were dismissed by the trial court upon partial grant of the defense's motion for judgment on the pleadings. The case proceeded to trial on a remaining breach of contract claim, resulting in a defense verdict. On appeal, the plaintiffs challenged the trial court's rulings on both the motion for judgment on the pleadings and a motion in limine related to evidentiary exclusions. The Pennsylvania Superior Court unanimously affirmed the trial court's rulings, holding that the tort claims were time-barred and that the plaintiffs had waived their evidentiary argument by failing to properly develop it in their appellate brief.
- Successfully defended a national homebuilding company in a Philadelphia arbitration involving a motor vehicle negligence claim. The plaintiff falsely alleged he was a passenger in a vehicle operated by an independent contractor, triggering a contractual indemnity dispute. The arbitration panel found no liability and concluded the plaintiff's claims were fraudulent. The panel also ordered the co-defendant to reimburse all reasonable attorneys' fees expended in the defense pursuant to the indemnity agreement.
- Obtained a favorable settlement during jury selection for a higher education institution against wrongful death and personal injury claims resulting from a fall.
- Obtained a favorable settlement on the eve of trial for a product manufacturer against personal injury claims arising from a house fire.

- Drafted a successful motion for summary judgment for a civil engineer regarding a storm water management design claim.
  - Served as co-counsel in successful defense of a national window manufacturer in the United States District Court for the Eastern District of Pennsylvania.
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## Results

### **Successfully Defended Appeal Sustaining Objections of Improper Venue**

We successfully defended the plaintiff's appeal of a trial court decision sustaining preliminary objections on the grounds of improper venue. This case involved the death of a 19-year-old woman at a university who fell down an 11-story trash chute in an off-campus condominium building. In this mixed negligence and product liability case, we represented two of the multiple defendants, the condominium association and the building management company. The Philadelphia Court of Common Pleas found that venue was improper in Philadelphia County and ordered that the case be transferred to Centre County. The plaintiff appealed that decision, and the matter was briefed and argued in the Superior Court of Pennsylvania. The Superior Court, in a precedential decision, affirmed the trial court's decision and found that there was no abuse of discretion in sustaining the preliminary objections. In support of its decision, the Superior Court found that the plaintiff's arguments were unsupported by Pennsylvania law. The Superior Court, in finding waiver of an issue, quoted directly from the brief prepared by Kim.

### **Achieved Dismissal of an Appeal of Our Defense Verdict**

We won dismissal of the plaintiff's appeal of a defense verdict. Our client issued a professional liability insurance policy to the plaintiffs. When the plaintiffs were sued for legal malpractice, they notified our client of the suit and asked them to provide counsel to defend the matter. However, the plaintiffs never agreed to counsel proposed by our client. The plaintiffs then proceeded to mediation in the legal malpractice action and settled the matter without notifying our client. As a result, our client denied the plaintiffs' request for indemnification. The plaintiffs then brought suit against our client for breach of contract and bad faith, alleging they wrongly denied indemnification and failed to provide counsel. The matter went to jury trial from April 8–11, 2024, where we successfully defended our client as the jury returned a defense verdict. The plaintiffs filed post-trial motions and then appealed the decision to the Superior Court of Pennsylvania, arguing the trial court erred in allowing the jury to see a copy of the insurance contract during their deliberations. The Superior Court dismissed the appeal and found that the plaintiffs waived their argument by failing to cite relevant legal authority in their appellate brief. The Superior Court also stated in a footnote that, should the court have reached the issue on appeal, it would have found it meritless because the insurance contract was a central piece of evidence to which the plaintiffs did not object during trial.

### **Defense Verdict Obtained in Philadelphia Arbitration Matter**

We were successful in a Philadelphia arbitration matter, obtaining a defense verdict as to the plaintiff's claims and an order requiring the co-defendant to reimburse attorneys' fees.

It was undisputed that a motor vehicle accident occurred involving a third-party independent contractor of our client, a prominent homebuilding company. The plaintiff claimed he was a passenger in the vehicle and, accordingly, brought a negligence action against our client, who tendered its defense to the independent contractor based on a contractual provision requiring defense and indemnification. The independent contractor denied the tender. During discovery, it was revealed that the plaintiff falsely claimed he was a passenger in the vehicle. The independent contractor again denied the tender, claiming that its duty to defend was never triggered. The case proceeded to an arbitration where the panel found neither defendant was liable but disagreed with the co-defendant's arguments regarding defense and indemnity. Accordingly, the arbitration panel entered a judgment in favor of our client and ordered the co-defendant to reimburse all reasonable attorneys' fees expended defending the action.

#### **Unanimous Appellate Decision Preserves Defense Win in Legal Malpractice Suit**

We successfully defended an appeal from a jury verdict previously secured by members of our Lawyers' Professional Liability Department in favor of the firm's client in a legal malpractice case. The plaintiffs initially asserted multiple tort claims and a claim under the Unfair Trade Practices and Consumer Protection Law, which were dismissed by the trial court upon partial grant of the defense's motion for judgment on the pleadings. The case proceeded to trial on a remaining breach of contract claim, resulting in a defense verdict. On appeal, the plaintiffs challenged the trial court's rulings on both the motion for judgment on the pleadings and a motion *in limine* related to evidentiary exclusions. The Pennsylvania Superior Court unanimously affirmed the trial court's rulings, holding that the tort claims were time-barred and that the plaintiffs had waived their evidentiary argument by failing to properly develop it in their appellate brief.

#### **Defense Verdict for Moving Truck Rental Company**

We secured a jury defense verdict in a general liability lawsuit brought against our client, a Pennsylvania moving equipment rental company. The plaintiffs were in their car at a McDonald's drive-thru in Delaware when their vehicle was struck by an unattached trailer that had blown from an adjacent parking lot during a storm. The trailer was blown from the parking lot of the adjacent gas station which rented trailers to the public as part of a dealership agreement with a Delaware moving equipment rental company that had the same parent corporation as the client. After the accident, the gas station employee provided the plaintiff with an old business card for an employee of the Delaware equipment rental company, but which identified the employee as an agent of the Pennsylvania moving equipment company. The plaintiffs contended that the business card established agency, and we argued that an old business card was not enough to establish agency and that the testimony of the parties directly contradicted the wording on the business card. The plaintiffs claimed to have suffered neck and back injuries, and one contended she would have future medical expenses in excess of \$100,000. The first question on the verdict slip asked the jury to state whether the Delaware company employee was also an employee and/or agent of the Pennsylvania moving truck rental company at the time of the accident and the jury answered "No." That eliminated the need for the jury to answer any further questions, and a defense verdict was rendered.

### **Client Successfully Dismissed from Significant Product Liability Matter**

We obtained dismissal of our client via preliminary objections in a significant product liability matter. The plaintiffs were seriously injured in a workplace accident involving a tile packaging machine. Despite the plaintiffs asserting that original process was properly served on our client, we successfully argued to the court that the purported certified mail receipt was never signed by an agent of our client and, in fact, simply said "COVID-19" on the signature block. The court sustained our objections and dismissed the case as to our client.

### **Defense Verdict Affirmed in Wrongful Death Case Involving COVID-19**

We successfully convinced the Pennsylvania Superior Court to affirm the trial court's decision to sustain preliminary objections and dismiss a wrongful death case involving allegation of negligent transmission of COVID-19. The plaintiff alleged that his elderly parents contracted COVID-19 from employees of our client who were providing non-medical, in-home care services, and that his parents ultimately died from the disease. In affirming the trial court's dismissal of the action, the Superior Court held that no duty to prevent transmission of an illness exists under current Pennsylvania law, and that no new duty should be created under these circumstances.

### **Dismissal of Wrongful Death Action Against Home Aide Care Service**

We obtained dismissal, with prejudice, of a wrongful death and survival action against a home aide care service. The plaintiff filed an action alleging that employees of our client transmitted COVID-19 to his elderly parents and that, as a result, both of the plaintiff's decedents passed away. We filed preliminary objections on the grounds that Pennsylvania does not recognize a duty to prevent a ubiquitous, communicable virus such as COVID-19, that the tort claims were barred by the gist of the action doctrine, and on the grounds that the allegations do not give rise to punitive damages.

### **Defense Verdict in Auto Liability Arbitration in Philadelphia**

The arbitration panel found in favor of the defendant in a motor vehicle accident case where the plaintiff was driving a dump truck and claimed he was side-swiped by a tractor-trailer. The plaintiff filed suit against the driver of the tractor-trailer and his employer, both of whom were represented by Marshall Dennehey. It was the defendants' position that the plaintiff was not side-swiped, but that the plaintiff actually rear-ended the tractor-trailer because he was going too fast to stop as the tractor-trailer moved from the right lane into the left lane. At the arbitration, plaintiff's counsel attempted to introduce photographs that were not produced in discovery and were only shown by the plaintiff to his attorney the morning of the arbitration. Plaintiff's counsel also attempted to enter into evidence the police report. We were successful in getting both items of evidence precluded. The key piece of evidence was that the plaintiff admitted, both in his written responses to discovery and during his testimony, that he first noticed the defendant's vehicle merging into his lane when the defendant's vehicle was 30-40 feet ahead of him.