

Carol A. VanderWoude

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Carol is a member of the Appellate Advocacy and Post-Trial Practice Group in the Professional Liability Department. She focuses her practice on drafting concise, forceful briefs and delivering persuasive oral arguments in state and federal trial and appellate courts. Carol handles appeals across a wide range of subject areas which include, among others, products liability, toxic torts, medical malpractice, insurance coverage, civil rights, professional liability and premises liability. As part of her practice, Carol regularly handles emergency matters which arise throughout the course of litigation and assists trial counsel with development of legal strategies, preparation of pre-trial motions, trial briefs, and post-trial motions. She also performs appellate monitoring of high-exposure trials to assist trial counsel in preserving issues for appeal. This assistance includes handling and arguing legal issues before the trial court so trial counsel can focus on witnesses and the presentation of evidence.

In addition to her practice, Carol is actively involved in Pennsylvania defense organizations and informing members of the defense bar about notable legal developments. Currently, Carol serves as co-editor of Counterpoint, the well-regarded magazine of the Pennsylvania Defense Institute. She has also hosted statewide teleconferences of defense counsel regarding new legal developments.

Prior to joining Marshall Dennehey in 2005, Carol worked for five years as a staff attorney for the United States Court of Appeals for the Third Circuit where she drafted memoranda of law and opinions on a variety of subjects including civil rights, employment, bankruptcy, immigration, securities and tax law.

Carol graduated from California State University, San Marcos, *magna cum laude*, with a Bachelor of Arts in political science. She subsequently attended American University, Washington College of Law, where she obtained her *juris doctor, cum laude*, in 2001. While attending law school, Carol taught legal research and writing and served as a member of the *American University Law Review*.

Practices

- Appellate Advocacy & Post-Trial Practice
- Premises & Retail Liability
- General Liability
- Product Liability
- Environmental & Toxic Tort Litigation

Education

- Washington College of Law American University (J.D., *cum laude*, 2001)
- California State University, San Marcos (B.A., *magna cum laude*, 1997)

Admissions

- Pennsylvania, 2005
- U.S. District Court Eastern District of Pennsylvania, 2005

Associations & Memberships

- Pennsylvania Bar Association
- Philadelphia Bar Association
- Loyola University, Philadelphia Alumni Chapter, Board of Directors

Published Works

- "[Statute of Limitations Stands: Pennsylvania Court Affirms Dismissal of Breach of Contract Claim Against Insurance Broker](#)," *PLUS Blog*, March 4, 2025
- "Equipment Manufacturers Liable for Replacement Parts Under Maritime Law, SCOTUS Says," *Legal Updates for Toxic Torts Litigation*, March 19, 2019
- "En Banc PA Superior Court Vacates \$14.5 Million Asbestos Verdict and Remands for New Trial," *Legal Updates for Toxic Torts Litigation*, January 2015
- "Addressing Malfunction Theory for First Time in 20 Years: Pennsylvania Supreme Court Clarifies Burden of Proof in Product Liability Case Based Upon Malfunction Theory," *Defense Digest*, Vol. 16, No. 1, March 2010

Significant Representative Matters

- Obtained reversal of a trial court's order overruling preliminary objections as to venue. The plaintiff filed suit in the Philadelphia County Court of Common Pleas alleging negligence for injuries sustained in a car accident. The accident occurred in Lebanon County between the plaintiff's vehicle and a school bus driven by an employee of defendant transportation company. The corporate defendant provided transportation services to school districts in Lebanon and Lancaster Counties, and had no clients in Philadelphia County. The trial court overruled the preliminary objections to venue, reasoning the act of transporting students into Philadelphia for approximately two-dozen field trips during the pertinent school year satisfied the quality-quantity venue analysis. The Superior Court disagreed. It was persuaded by the arguments raised on appeal and reversed. The court held that the field trips simply aided in the corporate defendant's main purpose of providing transportation services as directed by its clients located outside Philadelphia County, and that those field trips were not conducted regularly enough to satisfy the quantity portion of the venue analysis. The venue ruling was interlocutory and not appealable, but the Superior Court granted permission to immediately appeal the ruling so the venue issue could be resolved at the outset of the case.

- Obtained dismissal of clients by Summary Judgment in a Philadelphia premises liability case in which we represented both the landowner and tenant. The plaintiff originally demanded \$2 million, later reduced to \$800,000. Although our clients were responsible for sidewalk maintenance, the plaintiff's deposition testimony confirmed she tripped on a smaller portion of an alleged defect which was larger in other areas of the sidewalk. We successfully argued that this portion was de minimis and not actionable under Pennsylvania law. Despite a comprehensive opposition and a Motion for Reconsideration, the Court agreed with our arguments, dismissing all claims against our clients with prejudice.
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Results

Superior Court Reverses Trial Court Venue Objections

Carol VanderWoude (Philadelphia) obtained reversal of a trial court's order overruling preliminary objections as to venue. The plaintiff filed suit in the Philadelphia County Court of Common Pleas alleging negligence for injuries sustained in a car accident. The accident occurred in Lebanon County between the plaintiff's vehicle and a school bus driven by an employee of defendant transportation company. The corporate defendant provided transportation services to school districts in Lebanon and Lancaster Counties, and had no clients in Philadelphia County. The trial court overruled the preliminary objections to venue, reasoning the act of transporting students into Philadelphia for approximately two-dozen field trips during the pertinent school year satisfied the quality-quantity venue analysis. The Superior Court disagreed. It was persuaded by the arguments raised on appeal and reversed. The court held that the field trips simply aided in the corporate defendant's main purpose of providing transportation services as directed by its clients located outside Philadelphia County, and that those field trips were not conducted regularly enough to satisfy the quantity portion of the venue analysis. The venue ruling was interlocutory and not appealable, but the Superior Court granted permission to immediately appeal the ruling so the venue issue could be resolved at the outset of the case.

Summary Judgment Secured in a Case Involving a Trampoline Park Injury

We obtained summary judgment in a lawsuit arising from an injury suffered at an indoor trampoline park. During the deposition, the plaintiff admitted that there are inherent risks of engaging in trampoline activities, including the risk of being injured. Under the no-duty rule, a defendant owes no duty of care to warn, protect, or insure against risks which are common, frequent, expected and inherent in an activity. In the motion for summary judgment, it was argued that a trampoline park has no duty to protect patrons from the inherent risks of injury when jumping from a trampoline. The court opined that the no-duty rule was implicated and granted summary judgment in favor of all defendants.

Trial Court's Denial of Motions Reversed Before the Commonwealth Court of Pennsylvania

We convinced the Commonwealth Court of Pennsylvania to reverse the trial court's denial of motions for post-trial relief and to direct entry of judgment notwithstanding the

verdict in favor of our client. The plaintiff was injured while standing unsupported on a moving bus. He lost his balance when the bus accelerated away from a bus stop, grabbed an overhead bar to keep from falling, and injured his arm. The video showed that only the plaintiff lost his balance when the bus started moving. At trial, our client moved for nonsuit and directed verdict, arguing the evidence was insufficient to overcome the jerk-and-jolt doctrine that applies when a passenger is injured on a moving bus. To merit the submission of a jerk-and-jolt case to the jury, a plaintiff must establish a sudden stop or jerk so unusual and extraordinary as to be beyond a passenger's reasonable anticipation. The Honorable James Crumlish denied the motions for nonsuit and directed verdict and also denied our client's motions for post-trial relief. Judge Crumlish determined the video evidence presented a jury question under the jerk-and-jolt doctrine and mirrored the plaintiff's counsel's characterization of the video evidence in doing so. The Commonwealth Court disagreed. After independently reviewing the video evidence, the Commonwealth Court reversed the trial court and granted judgment notwithstanding the verdict to our client. In doing so, it pointed out that various observations of the trial court "were not supported by the video or testimony."

One Month – 4 Outstanding Results! Aaron Moore Obtained Four Successful Results on Behalf of Clients in the Span of One Month

Defense verdict on behalf of a real estate broker and agent. The plaintiffs, homebuyers, claimed that the sellers' broker and agent were liable to them for the value of fixtures that were taken by the sellers when they vacated the property, which were alleged to have been included in the sale. At a bench trial, the judge determined that neither the broker nor the agent could be held liable to the plaintiffs because the representations regarding what was included in the sale were made by the sellers.

Supreme Court affirmance of dismissal of a complex legal malpractice lawsuit.

Aaron and Carol Vanderwoude obtained a Delaware Supreme Court affirmance of the trial court's dismissal of a complex legal malpractice claim. The plaintiffs, seven affiliated companies and their owners in the business of developing property, had been sued by their bank for defaulting on multiple lines of credit. The bank filed multiple lawsuits against the property developers, claiming approximately \$7 million in damages, plus attorneys' fees, which were recoverable pursuant to the terms of the promissory notes. The property developers retained our client to defend the lawsuits, asserting that the amounts claimed to be owed to the bank were significantly overstated. Our client vigorously defended the bank's underlying lawsuits. Ultimately, the property developers settled the bank's lawsuits for the entire amount owed, plus interest and the bank's legal fees. The developers argued that its attorneys should have advised them to settle the bank's claims after the lawsuits were commenced and that, if they had done so, they would not have had to pay the bank's legal fees, our client's legal fees, or expert witness fees, or the additional interest on the loan. The property developers also claimed that not settling with the bank earlier caused them lost business opportunities valued at nearly \$1 million. The plaintiffs' legal malpractice claims were dismissed because their expert witness, a Maryland attorney with no business litigation experience, was not qualified to serve as an expert and because their damages claims were speculative.

Motion to dismiss in complex matter involving claims of fraud, misappropriation of trade secrets, tortious interference with contractual relations, and piercing the corporate veil. The plaintiff, an investment fund, had purchased a business that was controlled and primarily owned by our client. The business ultimately went bankrupt, and the plaintiff claimed that the purchase was premised upon misrepresentation by our client. The plaintiff maintained that jurisdiction in Delaware was proper pursuant to the Asset Purchase Agreement. The District Court was persuaded by arguments reflecting that it lacked personal jurisdiction over our client, a citizen of Canada, even though he signed the Asset Purchase Agreement which included language conferring jurisdiction over claims arising from the sale in Delaware. The court agreed that our client did not sign the agreement in his individual capacity, and the plaintiff's piercing the corporate veil allegations were insufficient to confer personal jurisdiction.

Dismissal of an unjust enrichment claim. Obtained dismissal of an unjust enrichment claim brought by a condominium unit owner against the attorneys who represented her condominium association. The unit owner claimed that the law firm was liable to her for unjust enrichment in connection with legal fees it received from the association for legal services provided in efforts to collect on past due assessments owed by the unit owner. Pursuant to the association's governing documents, the charges were passed on to the unit owner. The court agreed that the fees that were paid to our client by the condominium association were properly earned.

MD Successfully Defends Low Verdict Against Insurance Broker that Plaintiff Challenged on Appeal

In a case where an insurance broker faced claims of professional negligence, Carol VanderWoude (Philadelphia) successfully defended the plaintiff's appeal from a verdict obtained by Tim Ventura and Dana Gittleman (Philadelphia). The verdict against our client, an independent insurance broker, was well below the lost value of UIM coverage (i.e., \$1 million), which the plaintiff sought to recover based on an alleged breach of the professional standard of care in failing to procure an endorsement for \$ 1 million in UIM coverage on the plaintiff's decedent's commercial auto policy.

The verdict is notable because, at trial, the client gave unexpected testimony which impacted liability, and when confronted with the client's new trial testimony, our standard of care expert conceded a breach of the professional standard of care. Still, causation/damages were contested, and it was disputed at trial that the plaintiff's decedent would have actually received \$1 million in coverage. Tim elicited testimony on cross-examination of the plaintiff's expert to show that there was no evidence establishing the insurer would have provided additional UIM coverage even if the endorsement had been purchased.

Prior to trial the parties entered into a stipulation stating that damages were capped at the value of the lost coverage, \$1 million. Plaintiff's counsel challenged the low verdict on various grounds, focusing on the fact that our expert conceded a breach of a standard of care based on the client's unexpected trial testimony. He argued that, as a matter of law,

the damages amount was the lost value of the coverage and the verdict should be increased to \$1 million. The trial court agreed with our arguments, raised in opposition to the plaintiff's post-trial motions, that the low verdict amount was supported by the record and that the plaintiff's requests for post-trial relief were otherwise waived for various reasons.

The Superior Court affirmed in a unanimous decision.

Successfully Defended Appeal in Legal Malpractice Action

We successfully defended on appeal the trial court's grant of compulsory nonsuit in a legal malpractice action following the trial court's rulings on various motions in limine. The trial court granted our clients' motions in limine to preclude the plaintiff from introducing into evidence that its attorney sued the wrong parties, that its attorney obtained an uncollectable judgment, and that the plaintiff would have prevailed in a lawsuit against other parties. Following the motion in limine rulings, trial counsel moved for nonsuit—arguing the plaintiff could not carry its burden of proof without the precluded evidence. On appeal, the plaintiff argued the trial court's evidentiary rulings violated the law of the case set forth in the Superior Court's decision reversing the trial court's order sustaining our clients' preliminary objections and dismissing the amended complaint, and that the trial court erred in granting the motions in limine. The Superior Court rejected both arguments and affirmed the trial court's denial of the plaintiff's motion to remove compulsory nonsuit.

Reversal Obtained in Pennsylvania Superior Court Regarding Denial of Objections to Venue

We obtained a reversal in the Pennsylvania Superior Court of the trial court's denial of preliminary objections to venue. We successfully moved in the trial court for certification of the ruling pursuant to Pa.R.A.P. 311(b) so that an immediate appeal from the interlocutory ruling could be taken, and we subsequently prevailed on appeal. The litigation arose from a helicopter accident that occurred in Afghanistan. Both plaintiffs, husband and wife, resided in Arizona. Our client is a Delaware corporation located in Bucks County, Pennsylvania, that refurbished the helicopter. The codefendant corporation leased the helicopter to the plaintiff-husband's employer, which was organized and principally operates in Montana. The plaintiffs' primary focus in seeking to establish venue was on our client and, in particular, on the fact that it purchased two fabric interiors from a Philadelphia vendor. The Superior Court determined that the business dealings of our client did not constitute actual business conducted in Philadelphia County. It stressed that "doing business with a Philadelphia County company does not amount to doing business in Philadelphia County if the obtained goods, services, or personnel are utilized elsewhere to further the defendant's business activities." As to the codefendant, the Superior Court concluded the limited venue evidence pointed to a separate but related corporate entity, and that the evidence failed to show the co-defendant regularly conducts business in Philadelphia County. Because there was no evidence to support the imputation of a separate entity's contacts with

Philadelphia on the co-defendant, venue as to the co-defendant was also improper.

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.

Appellate Reversal in the Third Circuit Obtained in Fourth Amendment Civil Rights Case

In a unanimous precedential opinion, the Third Circuit Court of Appeals agreed with our attorneys that a law enforcement officer's attempted arrest of the plaintiff did not constitute an unlawful seizure under the Fourth Amendment. Our client was instructed by a neighboring police department to hold a burglary suspect who was subject to a search warrant, but not an arrest warrant. After the officer tried to detain the suspect, he fled, and a fight ensued. While the district court held that the officer's initial attempt to detain the plaintiff was an unlawful seizure, the Third Circuit accepted our reasoning that no seizure occurred because the plaintiff never submitted to the officer.

Dismissal of Claims Against Day Care Center

We obtained dismissal via preliminary objections of all claims asserted against a day care center in a shooting case venued in Philadelphia. The case arose from the shooting death of a student's father. The shooter had been previously convicted of manslaughter and assault and was an employee of the day care center's long-time food service vendor. While the decedent was dropping off his youngest child at day care, he got into an argument with the shooter, who was on the premises delivering food. The decedent subsequently drove away with his 17-year-old son in the passenger seat, and the shooter followed in his work van. A few blocks away from the day care center, the shooter pulled up alongside the decedent's vehicle and repeatedly fired a handgun at the decedent. The decedent's son survived the shooting. The food service vendor, its affiliated entities, the day care center and the shooter were named as defendants. The claims against the day care center included negligence per se, negligent hiring, negligent supervision, negligent undertaking to render services, negligent infliction of emotional distress, violations of the Unfair Trade Practices & Consumer Protection Law (UTCPL), negligent misrepresentation, and negligent infliction of emotional distress as to the decedent's seventeen-year-old son who witnessed the shooting. The plaintiffs' negligence per se claims centered on alleged violations of the Child Protective Services Law (CPSL), the Public Welfare Law (PWL) and the Pennsylvania School Code (School Code). Among other things, the plaintiffs took the position that the day care center had a duty to ensure that its service vendor's employees did not have criminal records because those employees foreseeably came into contact with children and parents. On behalf of the day care center, we filed preliminary objections seeking dismissal of all claims asserted

against it. After briefing, the Philadelphia Court of Common Pleas granted our preliminary objections. The case subsequently resolved with no contribution whatsoever from our client.

Turf War - Summary Judgment for Synthetic Turf Field Installer

We obtained summary judgment in the Philadelphia, PA Court of Common Pleas in a case involving the alleged defective design and installation of a synthetic turf field. Our client was the alleged installer of a turf field located at a popular venue for recreational athletics. The plaintiff sustained a full tear of his right ACL, a complex tear of the medial meniscus and partial tear of the IT band when he tripped on an exposed seam in the turf. Discovery revealed that a flood occurred during turf installation, arguably impacting the outcome. Nevertheless, the court granted our motion for summary judgment premised on an argument that the plaintiff could not establish a deviation from the standard of care for turf installation in the absence of qualified expert testimony.

Superior Court Reaffirms “Hills and Ridges” Doctrine, Per Defense Argument.

We argued successfully before the Pennsylvania Superior Court on behalf of a commercial real estate developer. The case involved a probation officer who fell and badly injured himself during a blizzard. The demand was in excess of \$4 million. In its decision that reaffirms the “Hills and Ridges Doctrine,” the court reiterated our argument that, in essence, our client had no duty to remove snow and ice while it was still snowing. The court went further and held that no landowner has a duty to “pre-treat” their premises, and there is no duty to salt or place sand on parking lots during a storm or IMMEDIATELY thereafter. It also reaffirmed that oral contracts for snow and ice removal are valid.

Thought Leadership

March 4, 2025

Statute of Limitations Stands: Pennsylvania Court Affirms Dismissal of Breach of Contract Claim Against Insurance Broker