# David M. Farkouh


**Special Counsel**

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David is a member of the Professional Liability Department, focusing his practice on insurance coverage litigation, coverage counseling, and the defense of bad faith claims. He represents national and global insurers in complex first party and third party coverage disputes, guiding matters from coverage analysis and reservation of rights through declaratory judgment actions, dispositive motions, appeals, and strategic resolution. David has extensive experience handling the risk transfer issues arising from New York construction accident and Labor Law claims, including additional insured coverage, coverage priority disputes, contractual indemnification, antisubrogation issues, disclaimers under New York Insurance Law § 3420, and OCIP and CCIP wrap-up programs.

Prior to joining Marshall Dennehey, David spent more than 20 years practicing exclusively in insurance coverage groups at prominent New Jersey and New York firms. His experience includes serving as lead coverage counsel for a major insurer in a seven-year, $100 million-plus coverage dispute stemming from an international agribusiness company's herbicide liability to regional water districts. He has also handled PFAS, CERCLA, and other long-tail environmental coverage matters, as well as class actions involving significant coverage issues.

Throughout his career, David has represented insurers in hundreds of litigated and non-litigated matters, including high-exposure and nine-figure coverage disputes across the country. He has advised and litigated coverage issues involving commercial general liability, excess and umbrella, environmental and pollution, professional liability, D&O, E&O, employers' liability, commercial auto, commercial property, contractors' liability, and business interruption policies. His practice regularly involves complex questions concerning the duty to defend and indemnify, additional insured status, policy exclusions and manuscript endorsements, self-insured retentions, allocation of long-tail liabilities, and bad faith and failure-to-settle claims.

David graduated from Rutgers College in 2001. He earned his *juris doctor* from Seton Hall University School of Law in 2004. Following law school, he served as a judicial law

## Practices

- Insurance Services – Coverage & Bad Faith Litigation
- New York Construction & Labor Law
- Environmental & Toxic Tort Litigation
- Appellate Advocacy & Post-Trial Practice

clerk in the Appellate, Chancery and Law Divisions of the Superior Court of New Jersey.

David was born in New York, raised in Brooklyn, and lives on Staten Island with his two children.

David is admitted to practice in New York and New Jersey.

## Education

- Seton Hall University School of Law (J.D., 2004)
- Rutgers, The State University of New Jersey (B.A., 2001)

## Admissions

- New Jersey, 2004
- New York, 2005
- U.S. District Court District of New Jersey, 2004
- U.S. District Court Southern District of New York, 2007
- U.S. District Court Eastern District of New York, 2007
- U.S. Court of Appeals 2nd Circuit, 2011
- U.S. Court of Appeals 3rd Circuit, 2011

## Honors & Awards

- The Best Lawyers in America©, Insurance Law (2024-2027)
- New Jersey Super Lawyers Rising Stars, Insurance Coverage (2013-2019)

*The Super Lawyers list is issued by Thomson 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.*

## Representative Cases & Matters

- Obtained summary judgment for a CGL insurer that it owed no duty to defend or indemnify under its policy for the underlying construction accident claims, and defeated the insured's motions for reconsideration and for certification of an interlocutory appeal. In a separate opinion in the same action, obtained summary judgment for the affiliated employers' liability insurer that it owed no duty to defend or indemnify the subcontractor insured for the purely economic damages sought from it, which fell outside the risks covered by an employers' liability policy.
- Obtained dismissal of a bad faith claim before discovery, and later court approval of a class action settlement, for an auto insurer in a putative class action regarding the PIP limits available under its New Jersey automobile policies.
- Obtained summary judgment enforcing the financial services exclusion in commercial general liability policies, and its affirmance on appeal.
- Briefed the successful defense on appeal of a judgment that a shipping company failed to establish the material terms of a lost marine protection and indemnity policy alleged to cover underlying asbestos claims.
- Obtained summary judgment for CGL and umbrella insurers against a curtain wall subcontractor's claims for defense and indemnity of latent construction defect claims at a casino project.
- Briefed and argued the motion that obtained summary judgment establishing the duty

to defend on a primary and noncontributory basis under a subcontractor's manuscript additional insured endorsement in litigation arising from a construction site wrongful death.

- Argued and obtained summary judgment finding that a commercial auto insurer owed a defense to an owner and general contractor under a wrap up program.
- Served as lead coverage counsel for a major insurer in a seven year, $100 million plus coverage dispute arising from an international agribusiness's herbicide liability to regional water districts, involving sudden and accidental and absolute pollution exclusions, allocation of long tail liabilities and the law of numerous jurisdictions, and briefed summary judgment on whether the pollution exclusions applied as a matter of law.
- As lead counsel for a major insurer, argued and obtained the denial in part of an insured's motion to compel discovery of the geographic and customary rates the insurer paid to defense counsel, substantially limiting the required disclosures subject to confidentiality protections.