

Kevin M. McGoldrick

Shareholder

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Kevin is a shareholder with the firm's Casualty Department where he practices in the areas of premises liability, motor vehicle liability, UM/UIM litigation and medical provider fraud and special investigation as well as Personal Injury Protection (PIP) litigation. He has extensive experience in motor vehicle liability and auto negligence, premises liability litigation, as well as handling PIP litigation for several carriers. He has successfully handled hundreds of cases ranging from motor vehicle accidents, UM/UIM litigation, PIP litigation and slip and fall liability. His practice in the area of fraud investigation consists of assessing and analyzing fraud by both medical providers and falsified claims brought by his client's insureds. He has handled countless auto negligence claims including M.I.S.T. cases involving minor impact soft tissue damage claims. He has represented a broad range of individual carriers in a wide range of law suits, including some high exposure dealing with commercial carriers.

In the course of his career, Kevin has taken several matters to trial, including many jury trials for both auto negligence and UM/UIM litigation. He is also skilled in alternative dispute resolution forums including mediation and arbitration.

After receiving his Bachelor of Science degree from Pennsylvania State University in Administration of Justice in 1994 where he was Deans List 1993-1994, Kevin completed an internship with the Abington Police Department where he was involved in multiple investigations and worked with detectives in questioning witnesses, obtaining evidence and providing information to prosecutors for criminal trials. Kevin received his *juris doctor* from Widener University in Wilmington, Delaware, while attending the extended/night division program and maintaining a full-time position as a paralegal/law clerk for a plaintiff's personal injury firm. Kevin participated and was a member of the Widener Law rugby team where he played for the four years he attended law school. He received the Certificate of Achievement Award in Pre-Trial Methods for excellence in legal writing.

Practices

- Fraud/Special Investigation
- Automobile Liability
- General Liability
- Insurance Services – Coverage & Bad Faith Litigation

Kevin is frequently asked by clients and industry organizations to lecture on a variety of topics concerning auto negligence law, UM/UIM litigation and PIP litigation. He has lectured for various organizations including the South Jersey Claims Association, Camden County Bar Association and New Jersey Special Investigators Association (NJSIA).

Kevin is an active member of the Swedesboro Woolwich Little League (SWLL) and volunteers his time coaching his children in softball, baseball and flag football.

Education

- Widener University Delaware Law School (J.D., 2001)
- The American Institute for Paralegal Studies (Paralegal Certificate, 1996)
- The Pennsylvania State University (B.S., 1994)

Admissions

- New Jersey, 2001
- U.S. District Court District of New Jersey, 2001
- Pennsylvania, 2023

Associations & Memberships

- American Bar Association
- Camden County Bar Association
- New Jersey Special Investigators Association (NJSIA)
- South Jersey Claims Association
- Widener University School of Law Alumni Association
- The Pennsylvania State University Alumni Association

Classes/Seminars Taught

- *Metrics Driven SIU UMBI*, New Jersey Special Investigators Association (NJSIA), Atlantic City, NJ, July 2015

Published Works

- "New Jersey Appellate Division Rejects Contention that Ongoing Storm Rule Does Not Apply to Privately Owned Commercial Property," *Defense Digest*, Vol. 29, No. 3, September 2023
- "The Impact of the *DiFiore* Case on Defense Medical Exams," *Defense Digest*, Vol. 28, No. 12, December 2022
- "Superior Court or Forthright? That is the Question," *New Jersey Law Journal*, Automobile Law Supplement, January 27, 2016
- "A Comparative Analysis Is Not Required Under AICRA Unless Aggravation Of Pre-Existing Injuries Is Pled As A Cause Of Action," *Defense Digest*, June 2007

Significant Representative Matters

- Plaintiff tripped and fell on raised sidewalk in front of defendant's private residence. Plaintiff suffered significant injuries including a displaced fracture of the shoulder and

humeral head fracture requiring a complete shoulder reverse arthroplasty. Plaintiff's demand was \$750,000. Defendants assert that it is undisputed that Defendants did NOT perform any work, maintenance or construction to the sidewalk prior to Plaintiff's alleged fall in May 2020, thereby, creating or exacerbating, a condition on the sidewalk which would have contributed to or caused the plaintiff's fall. The general rule is that a residential property owner owes no duty to keep a sidewalk abutting his property in repair. *Norris v. Borough of Leonia*, 160 N.J. 427, 431 (1999). While the Court has created an exception to the rule of non-liability in the case of an abutting commercial property owner as in *Stewart v. 104 Wallace Street, Inc.*, 87 N.J. 146 (1981), it has consistently declined to extend that liability rule to abutting residential and non-profit owners. Additionally, New Jersey Courts have recognized that "[r]esidential homeowners can safely rely on the fact that they will not be liable unless they create or exacerbate a dangerous sidewalk condition...." *Luczejko v. City of Hoboken*, 207 N.J. 191, 210 (2011). The judge found that there are no genuine issues of material fact to support a theory of liability on behalf of Defendants and granted our motion for summary judgement.

- Secured stipulation of dismissal with prejudice in federal court for personal injuries alleged by plaintiff in an automobile accident. The plaintiff was alleging to have sustained significant, permanent injuries as a result of a minor impact accident that occurred in a bank parking lot. Filed a motion to dismiss after the plaintiff failed to cooperate and appear for multiple defense medical exams. The magistrate agreed and dismissed the plaintiff's complaint with prejudice.
- Successfully tried to verdict an automobile accident claim where plaintiff was seeking \$125,000 originally when Complaint was filed. Non-binding arbitration awarded plaintiff \$45,000. Minimal offer was extended and rejected by plaintiff. Jury found for the defense confirming plaintiff did not pierce the verbal threshold pursuant to N.J.S.A. 39:6A-8 et seq.
- Secured dismissal of two plaintiffs claims for personal injuries as a result of a slip and fall in a parking lot of the insured's business. Plaintiffs were seeking \$100,000 each for their alleged injuries. Kevin filed a Motion for Summary Judgment arguing the "Snow in Progress Doctrine" and the Superior Court agreed that the insured did not have an obligation or duty to perform snow removal services during a significant snow storm.
- Secured dismissal of plaintiff's claim for personal injuries in a slip and fall in front of the insured's business. Plaintiff suffered significant injuries including a dislocated and fractured wrist and head contusion. Plaintiff was seeking \$250,000 in damages. Kevin filed a Motion for Summary Judgment arguing plaintiff could not establish any negligence on the insured through the proofs submitted into evidence. Plaintiff was rendered intoxicated in the hospital records, knew of the existence of the alleged "hazard" beforehand and was the only eye witness to the fall. The Superior Court agreed that the evidence did not support plaintiff's allegations and there were no issues of fact that a jury could conclude the insured was responsible for plaintiff's injuries.
- Secured voluntary dismissal from plaintiff for a PIP suit filed by plaintiff with her bodily injury claims. Kevin was able to establish plaintiff had no standing to bring the suit against the carrier as the medical providers had taken an Assignment of Benefits from the plaintiff and pursued their claims for reimbursement in the Forthright Forum.
- Successfully resolved a claim for personal injuries in a trip and fall suffered at the insured's roller skating rink. The plaintiff tripped over a coin left on the skating rink floor used in the arcade machines at the insured's business. Plaintiff suffered a bimalleolar fracture to his ankle requiring surgery including plate and screws. Plaintiff made a demand for \$250,000 and the case resolved for \$31,500 which included a health care lien and wage claim. We were able to establish that the insured had no

actual or constructive notice of the coin being on the floor and had adequate security and personnel on the floor at the time of plaintiff's floor.

- Obtained a defense verdict in Monmouth County on behalf of a trucking company and their driver in a serious motor vehicle accident. The jury found no liability on Kevin's client and thereafter, found plaintiff did not pierce the Verbal Threshold, pursuant to N.J.S.A. 39:6A-8, as to the co-defendant.
- Obtained Summary Judgment on multiple PIP suits filed against the client/carrier based on the policy limits being exhausted pursuant to N.J.S.A. 39:6A-4.3.

Results

Homeowner Not Liable for Sidewalk Fall in Front of Residence

We obtained a summary judgment on behalf of our client in a trip and fall matter where the plaintiff tripped and fell on a raised sidewalk in front of the defendant's private residence. The plaintiff suffered significant injuries, including a displaced fracture of the shoulder and humeral head fracture, requiring a complete shoulder reverse arthroplasty. The plaintiff's demand was \$750,000. The defendants asserted that it is undisputed they did NOT perform any work, maintenance or construction to the sidewalk prior to the plaintiff's alleged fall in May 2020, thereby, creating or exacerbating a condition on the sidewalk which would have contributed to or caused the plaintiff's fall. The general rule is that a residential property owner owes no duty to keep a sidewalk abutting his property in repair. *Norris v. Borough of Leonia*, 160 N.J. 427, 431 (1999). While the court has created an exception to the rule of non-liability in the case of an abutting commercial property owner, as in *Stewart v. 104 Wallace Street, Inc.*, 87 N.J. 146 (1981), it has consistently declined to extend that liability rule to abutting residential and nonprofit owners. Additionally, New Jersey Courts have recognized that "[r]esidential homeowners can safely rely on the fact that they will not be liable unless they create or exacerbate a dangerous sidewalk condition...." *Luczejko v. City of Hoboken*, 207 N.J. 191, 210 (2011). The judge found that there were no genuine issues of material fact to support a theory of liability on behalf of the defendants and granted our motion for summary judgment.

Thought Leadership

September 1, 2023

New Jersey Appellate Division Rejects Contention that Ongoing Storm Rule Does Not Apply to Privately Owned Commercial Property

December 1, 2022

The Impact of the DiFiore Case on Defense Medical Exams