

Patricia M. McDonagh

Shareholder

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Patricia concentrates her practice primarily on insurance coverage litigation and counseling, bad faith litigation, environmental and toxic tort litigation, and appellate practice. She has represented a large number of insurance companies and insurance industry professionals in both first and third party insurance coverage and bad faith matters. Patricia provides coverage opinions and advice to insurance carriers concerning their coverage obligations under insurance policies they issued and which provided CGL, homeowners', automobile liability, UM/UIM, PIP, workers' compensation and/or employer's liability coverage. She has also represented oil delivery companies and other third parties in litigation where they have been asked to assume or share in the costs of state-mandated clean up and remediation of environmental contamination. In addition, Patricia has had a great deal of experience in the defense of general liability, professional malpractice and products liability matters.

In 1990, Patricia graduated *magna cum laude* from Fairfield University. She then went on to obtain her *juris doctor* from Villanova University School of Law in 1993, after which she was admitted to the bar in the states of New Jersey and the Commonwealth of Pennsylvania.

After working for another defense litigation law firm in Morristown, New Jersey, Patricia joined Marshall Dennehey in 1997 and practices in the firm's Roseland, New Jersey, office, where she oversees the bad faith/coverage matters in that office.

Education

- Villanova University Charles Widger School of Law (J.D., 1993)
- Fairfield University (B.A., *magna cum laude*, 1990)

Admissions

- New Jersey, 1993

Practices

- Insurance Services – Coverage & Bad Faith Litigation
- Environmental & Toxic Tort Litigation
- Appellate Advocacy & Post-Trial Practice
- Premises & Retail Liability

Honors & Awards

- The Best Lawyers in America®, Appellate Practice (2026-2027)

— The Best Lawyers in America® list is published by Best Lawyers®. 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.

Associations & Memberships

- Essex County Bar Association
- New Jersey State Bar Association

Representative Cases & Matters

Assisted in securing a unanimous 6-0 defense verdict in a New Jersey premises liability case after the jury found no negligence on the part of the defendant. The plaintiff alleged that a six-foot drill bit fell from a retail display, causing a concussion, post-concussion syndrome and permanent cognitive impairments. The defense demonstrated that the item was displaced only after an unidentified customer struck the shelving with a shopping cart and that there was no evidence store employees knew or should have known of the condition. Through surveillance video, fact witness testimony and expert evidence, the defense also established that the impact was inconsistent with the forces necessary to cause a concussion and highlighted alternative explanations for the plaintiff's claimed injuries. Following a six-day trial, the jury returned a complete defense verdict, finding the defendant was not negligent.

Secured a unanimous defense verdict in a premises liability matter involving a national home improvement retailer. The plaintiff alleged that she developed Complex Regional Pain Syndrome (CRPS) following a fall in the retailer's parking lot in October 2022. Plaintiff claimed that the incident necessitated significant ongoing medical treatment, including the implantation of a permanent spinal cord stimulator. The plaintiff sought substantial damages, including claims for extensive future medical care. The defense team successfully challenged the credibility of the plaintiff's allegations and expert testimony through rigorous cross-examination and the presentation of defense experts in forensic engineering, human factors, and pain management. The defense also demonstrated that the plaintiff's alleged condition was attributable to pre-existing medical issues rather than the incident at issue. Following a six-day trial, the jury deliberated for just 42 minutes before returning a unanimous verdict finding no negligence on the part of the defendant.

Secured a no-cause verdict on behalf of a national home improvement retailer in a personal injury action. The plaintiff alleged that on May 20, 2019, she was injured at one of the retailer's stores when an associate moved a lumber cart, causing a PVC pipe to fall and strike her head and right shoulder. She claimed permanent traumatic brain injury, concussion, and spinal injuries, supported by her orthopedic and neurologic experts. Our defense orthopedic and neurologic experts testified that the plaintiff's reported symptoms were more consistent with malingering or a somatoform disorder. After a one-week trial and approximately 45 minutes of deliberation, the jury unanimously found the defendant

was not negligent. The last demand was \$1.2 million, and the final offer was \$100,000.

Obtained summary judgment in favor of an automobile liability insurance carrier, wherein court upheld carrier's disclaimer of defense and indemnity coverage to its insured in response to personal injury lawsuit brought against insured arising from motor vehicle accident on the basis that insured had made material misrepresentations on his insurance policy application as to where he resided and principally garaged the insured vehicle.

Successfully represented an insurance carrier in a declaratory judgment action, wherein carrier disclaimed coverage to insured under an automobile liability insurance policy with regard to an underlying personal injury lawsuit brought against insured arising from a motor vehicle accident because insured failed to provide the carrier with notice of either the accident or the resultant lawsuit and which, in turn, substantially prejudiced the insurer.

Obtained summary judgment on behalf of defendant employers and having all claims against them dismissed in civil lawsuits brought against them by their own employees for injuries the employees sustained in the workplace on the basis that there was no evidence to support a finding that the "intentional wrong" exception to the workers' compensation bar applied. In one of these cases, in particular, after successfully in having the plaintiff employee's claim against his employer dismissed, the employee continued to litigate his claim against the remaining defendant, a forklift manufacturer, resulting in a jury verdict in favor of the plaintiff in excess of \$1 million, which was subsequently affirmed on appeal.

Obtained summary judgment in favor of a commercial general liability carrier in a declaratory judgment action, successfully limiting the CGL carrier's potential liability exposure in a case involving serious injuries to two plaintiffs as a result of a robbery. Received a favorable ruling from the court that the \$100,000 aggregate policy limit, set forth in the CGL policy's Assault & Battery Endorsement, was the applicable liability coverage limit potentially available to the injured plaintiffs under the CGL policy and not the \$1 million per occurrence coverage limit, set forth in the policy's Declarations, as was argued by the plaintiffs.

Successfully defended a CGL insurance carrier in a claim brought against it by the landlord/owner of a warehouse for defense and indemnity coverage as an Additional Insured under a CGL insurance policy issued by the carrier to one of the tenants at the warehouse in a high-exposure property damage loss case arising from a fire on the basis that the landlord did not qualify as an additional insured on the policy pursuant to the Additional Insured Endorsement and the landlord's claim should be a claim against its insurance broker for professional negligence in not procuring the proper insurance coverage requested by the landlord.

Obtained summary judgment in favor of a subcontractor on an indemnity cross-claim, where the contract at issue, between the subcontractor and the general contractor, did not include the required express language that the general contractor would be

indemnified for own negligence.

Published Works

- "New Jersey Supreme Court Holds that Evidence of an Insured's Uncompensated Medical Expenses Falling Between the Insured's Selected PIP Coverage and the Statutory Maximum PIP Coverage of \$250,000 Is Inadmissible," *Legal Updates for Coverage and Bad Faith*, March 28, 2019
 - "New Jersey Environmental Insurance Law: The Battle Over Coverage Between Insurers and Policyholders, Arising from "Owned Property Exclusion" Clauses in CGL Policies," *Defense Digest*, Fall 2004
 - "Are E-Mails Privileged?," *For The Defense*, November 2000
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Results

Summary Judgment for Insurer in Complex Coverage Case

We successfully persuaded the court to grant summary judgement on behalf of a major insurer on a complex coverage issue. This coverage case concerned two Virginia personal automobile policies in regard to an automobile accident in New Jersey. The son of a divorced couple sought coverage for an accident he was involved in on a major thoroughfare in New Jersey. At the time of the accident, the son was operating a motor vehicle owned by another Virginia resident, and he had the reasonable expectation that he had permission to operate the vehicle. The accident was very serious, and he sought coverage under both of his parents' policies. As to the mother's policy, we convinced the court that the son was not an insured under her policy because he was not so designated on the policy's declaration page, which was a specific condition of the policy pursuant to Virginia law. As to the father's policy, once again, we convinced the court that the son was not an insured under this policy given the fact that the mother had sole and exclusive custody under the divorce agreement; thus, the son was not a resident relative of the father's household. Therefore, neither policy provided coverage for the son, and the insurer was totally dismissed from the case.

Court Agrees Mode of Operations Does Not Apply in Retail Liability Case

We were successful on a motion for summary judgment, thereby barring the application of the mode of operations in a slip and fall case where an alleged partially eaten sandwich was found in the aisle of the retailer. The facts indicated that the sandwich came from a fast-food sandwich shop within the premises and was dropped by an unidentified customer, who took the item to go and dropped it in the aisle before the plaintiff fell. The court ruled that the mode of operations did not apply because the aisle, which contained greeting cards and the like, and did not create an extension of the cafeteria within the retailer's premises. Further, the court ruled there was no nexus to any self-serve component of the fast food restaurant's business to the area in the retailer's store proper where the accident occurred.

Court Finds Plaintiff Not Entitled to UIM Coverage

We obtained summary judgment in favor of our insurance company client. The plaintiff sought UIM coverage from our client as a resident relative of the client's named insured. The plaintiff was a named insured on another policy which provided UM/UIM coverage. The court granted our motion for summary judgment based upon an exclusion in the client's policy that excluded UIM coverage for any family member if that family member is a named insured on another policy providing UM/UIM motorists coverage. The court found this exclusion to be clear and unambiguous and to reasonably inform the plaintiff that he was not entitled to UIM coverage under the policy. The court rejected the plaintiff's argument that the exclusion was vague, ambiguous and unenforceable.