

Thomas McKenzie

Shareholder

TJMckenzie@mdwcg.com

Philadelphia – 215.575.3562



Thomas J. McKenzie is a litigation and trial lawyer with more than 20 years of experience. He concentrates his practice on the defense of casualty, transportation and product liability cases. Tom has tried cases in numerous courts in Pennsylvania and New Jersey. He defends clients on a variety of matters, including product liability, class action claims, construction claims, civil rights, premises liability, motor vehicle and transportation. Tom has also handled breach of contract, Federal Employer Liability Act and toxic tort claims. He has recovered millions of dollars in defense costs and indemnity for his clients based on contractual and additional insured claims against contractors. Tom has successfully defended numerous wrongful death and catastrophic loss claims.

Tom serves as a Judge Pro Temp in the Philadelphia Court of Common Pleas and an Arbitrator for the Philadelphia Court of Common Pleas Compulsory Arbitration Program. He is licensed in the Commonwealth of Pennsylvania and the State of New Jersey. Tom has been admitted pro hac vice in the State of Delaware and the United States District Court for the District of Delaware.

Outside of his practice Tom coaches youth basketball, baseball and soccer.

Education

- University of Baltimore School of Law (J.D., 1999)
- Loyola University Maryland (B.A., 1995)

Admissions

- New Jersey, 1999
- Pennsylvania, 1999
- U.S. District Court District of New Jersey, 1999
- U.S. District Court Eastern District of Pennsylvania, 2000

Practices

- General Liability
- Trucking & Transportation Liability
- Premises & Retail Liability
- Public Entity & Civil Rights Litigation
- Automobile Liability
- Product Liability

Honors & Awards

- Pennsylvania Super Lawyer Rising Star (2008, 2010-2013)

Associations & Memberships

- Brehon Law Society
- Pennsylvania Bar Association
- Philadelphia Association of Defense Counsel
- Philadelphia Bar Association
- The Lawyers Club of Philadelphia

Classes/Seminars Taught

- *Lights, Camera, Evidence*, Pennsylvania Bar Institute, Philadelphia, PA, July 21, 2015
- *An Overview of Pennsylvania Law & Effective Strategies for Litigation Management*, Client Seminar, King of Prussia, PA, June 2015

Published Works

- "The Fair Share Act in *Spencer* Is Not the Law, But It Just Might Become the Law," *Defense Digest*, Vol. 27, No. 5, December 2021

Significant Representative Matters

- Dismissal of Class Action putative claims for uninsured motorist benefits and first party benefits in the Philadelphia Court of Common Pleas.
- Summary Judgment granted for Defendants in a motor vehicle accident in a motor vehicle accident based on Plaintiff's failure to adduce evidence of Defendant's negligence.
- Judgment on the Pleadings in the United States District Court for the District of Delaware for a transportation company allegedly involved in a multiple vehicle accident.
- Dismissal of Islamic prisoner's equal protection and expression of religion claims pursuant to the 1st and 14th Amendments in the United States District Court for the Eastern District of Pennsylvania.
- Defense verdict in a claim for subrogation of first party benefits.
- Dismissal of defendant in a claim for injuries of 5-year-old who darted into street into company's car on city street.
- Settled numerous million-dollar wrongful death claims and severe disfigurement claims.
- Successfully defended at trial a claim of brachial plexopathy and back and neck injuries. Plaintiff was a nurse employed by a hospital who had escorted a patient in the Defendant's ambulance. The ambulance struck a rock formation which enters the roadway at a height over 7 feet and the ambulance was over 8 feet high. **Result:** Jury Verdict for Defendants ambulance company and its employee driver as the driver was not negligent. The demand at trial was \$950,000.
- Successfully defended at trial, claim for disc herniations to lumbar spine and cervical spine. Plaintiff underwent two spinal fusions and recommendation for third surgery. Result: Jury verdict for Client, Construction Supply Company.
- Successfully defended at trial, claim for multiple herniated discs resulting from

accident between client's Trolley and Plaintiff's car. **Result:** Jury verdict for Client, Transportation Company.

- Jury verdict for client defendant in passenger's motor vehicle accident claim resulting in multiple alleged herniated discs.
- Successfully defended at trial, claim for multiple disc herniations and sprained ankle allegedly resulting from trip and fall down client's outdoor steps. **Result:** Jury verdict for Client, premises owner.
- Represented paver in a negligence action in which an elderly woman fell in a parking lot and claimed hazardous condition. Jury concluded no defect in pavement. Verdict for defense.
- Obtained Judgment on the pleadings dismissing wrongful death claim against Commonwealth party defendant as violative of the Tort Claims Act.
- Summary Judgment granted in a wrongful death product liability suit due to plaintiff's failure to provide evidence to establish that a tractor was defective when it left the hands of the manufacturer.
- Dismissal at trial of a slip and fall claim due to plaintiff's repeated discovery violations.
- Dismissal at trial of a multiple-plaintiff automobile claim based on the failure of all plaintiffs to pass the limited tort threshold.
- Dismissal of a fire loss claim based on theories of product defect and construction defect.
- Successfully argued before the Pennsylvania Superior Court which affirmed trial court's ruling.
- Obtained voluntary dismissal without payment of wrongful death and survival claims of Plaintiff who was hit by a bus, owned and operated by client, transportation company.
- Obtained voluntary dismissal without payment of wrongful death and survival claims of Plaintiff who was electrocuted after falling onto subway tracks of client, transportation company.
- Summary Judgment granted in Fourteenth Amendment claim by Muslim prisoner demanding Halal food.
- Obtained Summary Judgment in injury claims arising from accident between a train and a passenger on the platform. The accident was allegedly caused by the alleged failure to warn and prevent the destabilizing slipstream effect of trains travelling through the station on the nearest track to the platform of client, transportation company.
- Obtained Summary Judgment in slip and fall resulting in fractured patella for plaintiff's failure to prove that accident occurred inside the demised premises of corporate lessee.
- Summary Judgment granted in a slip and fall claim for plaintiff's failure to articulate the mechanics of the fall in a manner that suggested the fall was due to the alleged defect.
- Summary judgment granted in a case claiming negligent maintenance of a door.
- Obtained Summary Judgment granted for client in slip and fall claim on client's property resulting in fractured ankle requiring open reduction internal fixation surgery based on Commonwealth immunity from accidents caused by a defect which originates from a source outside of the Commonwealth real estate.
- Summary judgment granted in a case claiming negligent maintenance of a sidewalk.
- Obtained Summary Judgment for food service provider in equal protection claim by Muslim prisoner related to vegetarian religious diet.
- Obtained Summary Judgment for an employer in motor vehicle accident, due to plaintiff's failure to prove negligent entrustment, wherein Plaintiff alleged back and

neck injuries from minor collision with client's employee.

- Dismissal for Prejudicial Late Joinder in a FELA claim, where the original defendant alleged product liability and negligence claims against our client/corporation.

Results

Plaintiffs' Class Action Certification Attempts Thwarted

We received a favorable decision from the Philadelphia County Court of Common Pleas Commerce Program. Our motion to strike the plaintiffs' class action certification was granted, effectively dismissing the plaintiffs' attempts at a class action lawsuit against a transportation authority.

Thought Leadership

December 1, 2021

The Fair Share Act in Spencer Is Not the Law, But It Just Might Become the Law