

# Wendy R.S. O'Connor

Shareholder

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Wendy R.S. O'Connor, an attorney with 30+ years of experience in the defense litigation arena, has practiced in a variety of areas during the course of career, beginning with environmental insurance coverage and pharmaceutical products liability defense. After taking off time to raise her four daughters, one of whom is intellectually disabled, Wendy returned to the practice of law in the area of business litigation for five years before finding her “forever home” at Marshall Dennehey, where she focuses her practice in general casualty defense, retail premises liability and veterinary liability defense.

Representing local, regional, and national clients in trial and at the appellate level, Wendy has honed her written and oral advocacy over a lifetime of practice in the state and federal courts of Eastern Pennsylvania. Wendy is a prolific writer and presenter on litigation trends and has drafted scholarly articles on topics as diverse as the Peer Review Act and motorist cell phone usage as a basis for punitive damages claims. Wendy frequently writes about the practice of law from an interpersonal perspective and has authored articles focusing on client relations, collegiality in the profession, and the importance of mentorship.

Wendy views her role as counsel as both providing a sound, compelling defense as well as shepherding her clients through what can be a stressful and frightening experience. As a former parenting educator, Wendy attended an intensive, fifty-hour course for facilitators that concentrated on communication and has found this training to be an invaluable asset in her legal practice. From a philosophical standpoint, Wendy attributes her success to exhaustive preparation, humility, a hard-won thick skin, and her signature double string of pearls.

A voracious reader, Wendy also enjoys writing about non-legal issues and has authored over one hundred essays on current events, society, and culture. In 2002, Wendy wrote a story for her oldest daughter featuring a family not unlike her own; in the years since, she has penned twenty more such tales which, in addition to her annual scrapbooks, have become family heirlooms. Wendy loves to garden, her Newfoundland dog, Hattie; and her husband of 35 years, Michael, a family medicine physician.

## Practices

- Premises & Retail Liability
- General Liability
- Hospitality & Liquor Liability
- Product Liability
- Medical Malpractice
- Long-Term Care Liability

## Education

- Penn State Dickinson Law (J.D., 1989)
- Mount Holyoke College (A.B., *magna cum laude*, 1986)

## Admissions

- Pennsylvania, 1989
- New Jersey, 1990
- U.S. Court of Appeals 3rd Circuit, 1990
- U.S. District Court District of New Jersey, 1990
- U.S. District Court Eastern District of Pennsylvania, 1990
- U.S. District Court Middle District of Pennsylvania, 2008
- U.S. Supreme Court, 2019

## Associations & Memberships

- American Veterinary Medical Law Association
- Lehigh County Bar Association
- Northampton County Bar Association
- Pennsylvania Bar Association

## Classes/Seminars Taught

- *Hills and Ridges: Defending the Snow and Ice Slip and Fall Case in Pennsylvania*, Marshall Dennehey Client Presentation, 2019
- *Limited Tort v. Full Tort/Verbal Threshold v. Zero Threshold – Which Option Applies?* Marshall Dennehey Client Presentation, 2018
- *A Primer on Legal Malpractice Claims in Pennsylvania*, Marshall Dennehey Client Presentation, 2017
- *Blitz on Damages: Reducing the Plaintiff's Economic Damages Claim*, Marshall Dennehey Client Presentation, 2016
- *The Whittling Away of Protection Afforded Under the Pennsylvania Peer Review Protection Act*, Health Care and Health Law Seminar, Marshall Dennehey, November 5, 2015
- *Documenting Your Care: Good for You; Good for Your Patient*, Pocono Medical Center Nursing Staff, October 2015
- *Informed Consent After Brady v. Urbas – Taking Another Look*, Bar Association of Lehigh County, September 23, 2015
- *Mock Deposition of a Nurse*, Pocono Medical Center Nursing Staff, May 2015
- *Beyond Barrick v. Holy Spirit: Guidelines for Expert Witness Communications*, Northampton County Bar Association, March 2015
- *Anatomy of a Lawsuit and the Impact of the Internet*, October 2014
- *Grievance or Dispute Resolution Clauses*, September 9, 2014
- *Oh, What a Tangled Web We Weave: How the Internet Can Make or Break the Medical Professional Negligence Case*, 63<sup>rd</sup> Annual Joint Meeting of the Lehigh County Bar Association and Lehigh County Medical Society, September 9, 2014
- *EMR and Electronic Communications with Patients: When is it Okay to Hit Send?*,

Pocono Medical Center Grand Rounds, December 2013

- *Litigation Issues Arising From the Use of Electronic Medical Records*, Northampton County Medical Society, September 2013
- *Federal Discovery Abuses: Was That Wrong?*
- *Getting Paid in a Recession Economy: Tips for the Small Business Owner*
- *Documenting the Job: A Guide to AIA Forms for the Construction Manager*
- *The Importance of Patient Communication*, Sacred Heart Hospital Family Practice Residents, Winter 2012
- *Nursing Care Best Practices*, Moravian Village of Bethlehem, Spring 2011
- *Recent Updates from Pennsylvania's Appellate Court: Civil Litigation*, 2005

## Publications

- "The People v. COVID-19: Are You Ready For Some Litigation?" Defense Digest, Vol. 26, No. 1, Spring 2020
- "Cell Phone Usage and Motor Vehicle Litigation," *The Pennsylvania Bar Association Quarterly*, April 2020
- "Winning The 'Safety Sweep-Stakes': The Impact of Inspection Protocols on Retailer Slip-and-Fall Litigation", *Counterpoint*, newsletter of the Pennsylvania Defense Institute, January 2020
- "The 21st Century Litigator: You're Only As Good As Your Technology," *Network Magazine*, October 12, 2018
- "May I Finish? The Case Against Interrupting," *ABA Journal*, September 11, 2018
- "Avoiding Arbitration Panel Fatigue: Tips For Keeping Your Arbitrators' Full Attention," *The Pennsylvania Lawyer*, September/October 2018
- "Mentors Teach Young Lawyers How to Be Lawyers," *The Legal Intelligencer*, April 20, 2017
- "You Don't Have to be a Jerk: The Case for Civility in the Profession," Pennsylvania Bar Association, Civil Litigation Section, *Civil Litigation Update*, Winter/Spring 2017
- "Every Dog Has Its Day...In Court - Things to Keep in Mind When the Fur Starts to Fly," *Network Magazine*, Summer 2016
- "Does Your 'Bedside Manner' Need a Checkup?" *The Pennsylvania Lawyer*, July/August 2016
- "The Peer Review Protection Act ("PRPA"): Looking Back, Looking Ahead," *The Pennsylvania Bar Association Quarterly*, April 2016
- "Informed Consent: What Every Pennsylvania Physician Needs to Know," *Physician's News Digest*, October 19, 2015

## Pro Bono Activities

- Support for Child Advocates, Philadelphia, PA, 1990-1994

## Significant Representative Matters

- Obtained a defense verdict at jury trial on behalf of an arts and crafts supply store with respect to its sale of a candle which was left burning unattended and burned down Plaintiff's home, successfully defending against claims of product defect where candle manufacturer had obtained a joint tort release prior to trial.
- Obtained a verdict in subrogation action at jury trial on behalf of a commercial trucking company with respect to a tanker truck explosion which occurred during the loading of lubricating oil.

- Authored brief and argued before Superior Court of Pennsylvania to obtain affirmation of trial court's order granting summary judgment in favor of sellers accused of failure to disclose defects of residential property.
- Authored brief and argued before Superior Court of Pennsylvania to obtain affirmation by Commonwealth Court of Pennsylvania of trial court's dismissal of settlement agreement in action by members of duck hunting club where agreement was found to be ambiguous.
- Authored brief and argued before Superior Court of Pennsylvania to obtain affirmation by Superior Court of trial court's order granting summary judgment in favor of land development company against former partner demanding share of profits.
- Obtained defense verdict for roofing materials manufacturer against claims by plaintiff for improper installation where plaintiff failed to adduce any evidence that he roofing materials were defective; that roofing contractor was agent of the manufacturer; or that contractor was trained by the manufacturer as to proper installation procedures.
- Obtained defense verdict on behalf of homeowner where family friend assisting in moving tripped and fell on sidewalk crack where plaintiff admitted to being aware of crack long before moving day and that stepping on crack while carrying large, heavy boxes could be dangerous.
- Obtained defense award on behalf of home oil heating contractor in case involving allegations of failure to timely deliver fuel oil, resulting in cracked pipes and water leakage.
- Obtained defense award on behalf of restaurant/bar in case where plaintiff, who began an altercation with an ex-boyfriend, claimed to have been assaulted by bartender/employee.
- Obtained defense award on behalf of cinema in case where plaintiff claimed to have sustained injury to knee after sitting on allegedly defective movie seat.
- Obtained defense verdict on behalf of dentist in case where plaintiff claimed to have suffered damage as the result of alleged negligent performance of root canal procedure.
- Obtained defense verdict on behalf of veterinarian and animal hospital where plaintiff claimed that dog with bradycephalic airway disease died while in hospital's care.
- Obtained defense verdict in favor of fast-food restaurant in case where Plaintiff claimed to have chipped a tooth due to presence of a pebble in hamburger.
- Obtained judgment of non pros due to plaintiff's failure to prosecute action against attorney sued in malpractice.
- Obtained summary judgment in a premises liability case where the Plaintiff claimed her mobility scooter tipped over after encountering a pothole in a city street which, she claimed, was caused by our client's installation of an ADA-accessible ramp on the adjoining sidewalk. Judgment was sought and granted based upon the lack of evidence to show that any act or omission on the part of our client caused or contributed to the formation of the pothole.
- Obtained summary judgment in favor of janitorial service in slip and fall case against retail bookseller.
- Obtained summary judgment on behalf of retail grocery store where plaintiff slipped on vendor's delivery tray, which was sitting on floor, while reaching for loaf of bread on shelf.
- Obtained summary judgment on behalf of an out-of-possession landlord where door-dash driver slipped and fell on ice while delivering food to tenant.
- Obtained dismissal of retail grocer in case where plaintiff claimed to have been injured while walking in store parking lot.
- Obtained summary judgment on behalf of boxing gym where visiting coach fell from

boxing ring.

- Obtained summary judgment on behalf of entity accused of defamation against candidate for public office by means of alleged internet postings concerning candidate's alleged conduct.
  - Obtained summary judgment on behalf of landowner in case where plaintiff claimed to have tripped over sidewalk displaced by tree roots.
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## Results

### **Summary Judgment Secured in Pennsylvania Motor Vehicle Case**

We won summary judgment in a motor vehicle case before the Court of Common Pleas of Northampton County, Pennsylvania. The plaintiff was in the course and scope of her employment at the time of the vehicle collision. She filed a workers' compensation claim, and the workers' compensation judge ultimately determined that her alleged injuries were not related to the motor vehicle accident. The plaintiff appealed that decision to the Workers' Compensation Appeal Board, which affirmed. In her civil action against the driver and owners of the other vehicle, we asserted that the decision of the workers' compensation judge acted as collateral estoppel with regard to all claims, thus barring recovery by the plaintiff against our client. The plaintiff argued that the right to a jury trial, as guaranteed under the Pennsylvania Constitution, precluded application of collateral estoppel. The trial court disagreed, finding ample case law to support the application of collateral estoppel in such circumstances, and granted our motion for summary judgment.

### **Defense Knocks-Out Plaintiff**

We obtained summary judgment on behalf of a boxing gym. The plaintiff, a seasoned boxing coach, claimed to have been injured when he fell out of a boxing ring during a sparring match at the defendant's gym. The plaintiff asserted that while standing on the apron with his back to the ring, he was struck by one of the fighters and propelled out and onto the floor. He alleged the defendant was negligent because the boxing ring was "too high" and the flooring surface "too hard." In granting the defendant's motion for summary judgment, the court found first that the defendant owed no duty to the plaintiff because Pennsylvania law imposes no duty on sports facilities to protect spectators from risks that are common, frequent, and expected, and that the circumstances surrounding the incident eliminate any duty on the part of the defendant. The court also held that there was no evidence to support the plaintiff's contentions that the boxing ring was too high or that the lack of padding on the surrounding floor was a deviation from an established custom. In fact, the evidence established that the boxing ring complied with national boxing regulations. Accordingly, summary judgment was granted, and the plaintiff did not appeal the decision.