



MICHAEL J. SMITH

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Michael J. Smith is a partner and shareholder in the firm practicing in the area of complex litigation. With extensive experience in various types of commercial litigation, a significant part of his practice includes counseling and representing clients regarding complex insurance and reinsurance coverage issues. His experience includes matters arising out of underlying mass tort claims, bad faith/extra-contractual claims, professional liability/errors and omissions, advertising injury, construction defect, directors and officers, and property claims. Mike has extensive litigation and trial experience in both state and federal courts throughout the country, and is admitted to practice in Pennsylvania, New Jersey, New York, Ohio, and Washington, D.C., as well as before the U.S. District Courts for the Eastern and Middle Districts of Pennsylvania, the District of New Jersey, and the U.S. Court of Appeals for the 3rd Circuit. He has also been admitted, pro hac vice, to various courts throughout the country, and has handled matters in California, Connecticut, Delaware, Georgia, Indiana, Massachusetts, Minnesota, New Jersey, New York, Nevada, Ohio, Pennsylvania, Rhode Island, Tennessee, Texas, Washington state, and West Virginia.

Mike is frequently designated by clients and co-parties as lead counsel for purposes of arguing pre-trial motions and handling trial matters. His responsibilities include developing case strategies to ensure cost-effective outcomes, handling all aspects of discovery and motion practice, pretrial and trial practice, as well as conducting effective case negotiations (including, where appropriate, Alternative Dispute Resolution). He also advises clients regarding preventative measures and provides training to avoid or minimize liability exposure.

Mike has been voted a Pennsylvania “Super Lawyer” by his bar association peers. This honor is the result of an independent balloting survey sent to lawyers across the state and, overall, only 5 percent of lawyers are named to the list.

Professional Experience

Mike was a shareholder and partner at Cozen O’Connor from 2000-2013 where he practiced nationally in the area of complex litigation. From 1993-2000, Mike practiced in state and federal courts throughout Pennsylvania and New Jersey (including jury trials, bench trials, arbitrations and appeals) with a well-respected boutique litigation firm headquartered in Philadelphia, handling tort, products liability, insurance coverage, commercial litigation, civil rights, labor and employment, and professional liability matters.

Education

Mike earned his bachelor's degree, summa cum laude, in economics (with a minor in business) from Villanova University, and was a member of the Phi Beta Kappa and Omicron Delta Epsilon honor societies. His law degree is also from Villanova University. Additionally, he has successfully completed the National Institute of Trial Advocacy Mid-Atlantic Regional Trial Skills course.

Primary Practice Areas

- Complex Litigation
- Construction Defect
- Contribution
- Environment
- Extra-Contractual/Bad Faith
- First Party Coverage
- Third Party Coverage

Bar Memberships & Court Admissions

- Pennsylvania
- New Jersey
- New York
- Ohio
- Washington, D.C.
- U.S. District Court for the Eastern District of Pennsylvania
- U.S. District Court for the Middle District of Pennsylvania
- U.S. District Court for the District of New Jersey
- U.S. Court of Appeals for the Third Circuit

Professional Affiliations and Professional Organizations

- American Bar Association
- Pennsylvania Bar Association
- New Jersey Bar Association
- Philadelphia Bar Association
- Defense Research Institute (DRI)
- Pennsylvania Defense Institute (PDI) - Board Member/
Director of the Eastern District
- Philadelphia Association of Defense Counsel (PADC) -
served as President, Treasurer and Secretary
- Arbitrator, Court of Common Pleas, Philadelphia
- Montessori Children's House of Valley Forge (MCHVF) -
served as Board Member

Charitable & Civic Involvement and Personal Interests

Mike has represented, on a pro-bono basis, individuals in connection with Accion Comunal Latino Americana de Montgomery County (ACLAMO), a community-based multiservice organization serving the needs of low-income families, especially those of Latino background in Montgomery County, PA. Mike has also provided pro bono services to the Montessori Children's House of Valley Forge, Inc., a nonprofit school located in Valley Forge National Historical Park.

Representative Matters

Everest Indemnity Insurance Co. v. Valley Forge Inc., No. 15-593, E.D. Pa.; 2015 U.S. Dist. LEXIS 140277 (summary judgment granted to insurer on duty to defend, duty to indemnify and bad faith claim in case brought by Commonwealth of PA against insured alleging violation of Solid Waste Management Act, the Clean Streams Law and Pennsylvania common law)

Anna Kormilitsyna, et al. v. Everest National Insurance Co., Supreme Court of New York, County of New York, Index No. 650769/2013 (partial summary judgment entered dismissing declaratory judgment count and breach of implied covenant of good faith and fair dealing)

R.T. Vanderbilt Company, Inc. v. Hartford Accident & Indemnity Co., et al., Superior Court, Judicial District of Waterbury Connecticut, Complex Litigation Dep't, No. X02-CV-07-5016321S (Phase I Trial) (served as lead counsel for 28 insurers in a 2-week insurance coverage declaratory judgment trial involving underlying asbestos, silica and talc-related claims)

R.T. Vanderbilt Company, Inc. v. Hartford Accident & Indemnity Co., et al., Superior Court, Judicial District of Waterbury Connecticut, Complex Litigation Dep't, No. X02-CV-07-5016321S (Phase II Trial) (served as lead counsel for 28 insurers in a 5-week insurance coverage declaratory judgment trial involving underlying asbestos, silica, and talc-related claims)(resulted in policy holder being allocated 14 years of defense post-1986)

Green, et al. v. Everest National Insurance Company, et al., Court of Common Pleas, Philadelphia County, Pennsylvania, Docket No. 120403113 (preliminary objections in nature of demurrer granted in favor of insurer in direct action suit)

Everest National Insurance Company v. New Quality's Bar Que Hut, et al. U.S.D.C. E.D. PA, Docket No. 2:2011-CV-02435 (motion for judgment on the pleadings granted in favor of insurer finding no coverage for claims alleging violation of Telephone Consumer Protection Act)

Evraz Claymont Steel, Inc., et al. v. Harleysville Mutual Insurance Company, et al., Superior Court of Delaware, New Castle County, C.A. No. N10C-12-038 JRS (summary judgment entered in favor of insurer regarding additional insured endorsement)

Everest National Insurance Company v. J. Daniel Brett & Co., et al. U.S.D.C. E.D. PA Docket No. 08-CV-642 (motion for judgment on the pleadings granted in favor of insurer based on "dual entity"/professional services exclusion)

Speaking Engagements and Published Works

As a complement to his extensive litigation practice, Mike has published articles and given speeches on issues of significant importance to the insurance industry. His publications and presentations include:

Moderator and Speaker, *Reservation of Rights and Denial of Coverage Letters: Key Issues and Practical Considerations*, Client Seminar given on November 20, 2015

Moderator, *Latest in Coverage and Bad Faith*, 16th Annual Pennsylvania Bar Institute (PBI) Insurance Institute, May 9, 2012

Excess/Umbrella Insurance, client seminar given on December 8, 2010

Litigation Conduct and Bad Faith, client webinar presentation given on October 26, 2010

Litigation Conduct and Bad Faith, 2010 Cozen O'Connor Bad Faith/Extra-Contractual Conference: Unique Perspectives and Successful Strategies, presentation given on June 10, 2010, Philadelphia

Chinese Drywall: Background, Scope, and Insurance Coverage Implications, presentation given on October 1, 2009, Richmond, Va.

Chinese Drywall: Background, Scope, and Insurance Coverage Implications, presentation given on September 17, 2009, New York

Federal Magistrate Practice (Co-presented with the Honorable David Strawbridge), Philadelphia Association of Defense Counsel (PADC) Annual Meeting, June 11, 2008

Multiple Claimants and Insufficient Policy Limits: Slicing Up the Pizza Pie Without Getting Burned! Mealey's Litigation Report: Insurance Bad Faith, May 6, 2008

Bad Faith and Punitive Damages Arising from Third-Party Liability Claims (Co-author), Property Loss Research Bureau and the Liability Insurance Research Bureau National Conference, 2005, San Antonio

Where There's Smoke, Best's Review, August 2005 - article regarding insurance coverage and welding rod claims

Insurance Coverage Issues, 1st and 2nd Annual ACI Advanced Forum on Welding Rod Litigation conferences, Nov. 15-16, 2004, New Orleans, and June 20-23, 2005, Chicago

Presentations for various insurance companies, entitled *Bad Faith: Issues, Answers, and Practical Considerations*, *Bad Faith: Legal Issues and Pitfalls and Practical Considerations*, and *How to Avoid Bad Faith and Litigate Bad Faith Claims*

The Truth About Hold Harmless and Indemnity Agreements, Insurance Society of Philadelphia

Reservation of Rights/Denial of Coverage Letters, Insurance Society of Philadelphia