



Keith McKenna

Partner

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My Approach

I bring a great breadth of knowledge to my practice, and perform in-depth analyses before crafting a course of action that plots our moves several steps ahead. By being highly strategic, I'm able to give my clients practical advice about what is likely to happen and how their matters will unfold, which allows us to eliminate surprises and put the best plan in place from the very start.

Overview

Known for his ardent advocacy in complex and highly consequential cases, Keith McKenna represents clients in a wide range of general commercial litigation. As counsel for companies in industries including healthcare, manufacturing, sports and entertainment, government services, real estate, and telecommunications, he handles a wide-range of commercial disputes in federal and state court actions nationwide. The organizations Keith serves frequently rely on him to represent them in significant insurance coverage litigations and trials that procure damages and declaratory judgments in their favor against U.S. and European property and casualty insurers.

Viewing his clients' issues as his own, Keith always strives to solve their problems efficiently, recover money they're due, and bolster their business interests. With a strong commitment to 24/7 responsiveness and a down-to-earth style, Keith embraces the role of an advisor clients trust and depend on. He is rated AV Preeminent (4.9 out of 5.0) by his peers in Martindale-Hubbell, and is lauded for his skillful case management and sound judgment. One adverse lawyer described him as being among "the finest and most talented lawyers whom I have faced" and another as "true to his word, articulate, and knowledgeable of both the facts and law." In addition, Chambers USA has identified Keith as a ranked policyholder lawyer and notable practitioner in

“high-stakes coverage disputes,” and The Legal 500 notes Keith’s “tremendous skills, dedication, and experience.”

With a keen understanding that risky cases inspire a great deal of client anxiety, Keith exudes a calming presence, particularly in bet-the-company circumstances. He reassures those he serves that they’ve hired the right person for the job, that he will skillfully handle their cases, and that he will put them in the best position to procure the coverage they need to keep their company viable.

Education

Rutgers School of Law (*JD, Order of the Coif*, 1997)

Rutgers University (BA, 1993)

Admissions

Bar Admissions

New Jersey

New York

Court Admissions

U.S. Court of Appeals, Eighth Circuit

U.S. Court of Appeals, Second Circuit

U.S. District Court, District of New Jersey

U.S. District Court, Eastern District of New York

U.S. District Court, Southern District of New York

Relevant Experience

- Representation of **Verizon Communications Inc.** in securing a ruling from the Delaware Superior Court that, as a matter of law, Verizon is entitled to recover its approximately **\$24 million** in defense costs incurred in defending against a securities litigation involving the spinoff of certain of its landline business assets to FairPoint Communications, and may pursue coverage for its **\$95 million** settlement of that litigation.

- Representation of **Verizon Communications Inc., Verizon Financial Services LLC, and GTE Corporation (collectively, "Verizon")** in securing a victory before the Delaware Superior Court, which ruled that the company's insurers must provide coverage for tens of millions of dollars in legal fees and costs incurred in successfully defending against a **\$14 billion** lawsuit filed against Verizon in connection with the spin-off of its directories businesses, which later filed for bankruptcy. The court granted summary judgment to Verizon, finding that the policy's "Securities Claim" provision could be read to encompass a lawsuit alleging a violation of any statute or rule, including a common law rule, that must be followed to properly engage in a securities transaction, and that the lawsuit against Verizon contained such allegations.
- Representation of **Warren Pumps LLC** in a case seeking coverage from more than a dozen insurance companies for thousands of asbestos-related claims. The firm's lawyers have secured several high-profile courtroom victories for Warren, including a decisive jury verdict worth hundreds of millions of dollars, and landmark decisions from the New York Court of Appeals on the allocation of long-tail claims and the Delaware Supreme Court on critical issues, including assignment of policy rights and the trigger of coverage, which have allowed Warren to access more than **\$500 million** dollars in asbestos insurance coverage limits.
- Representation of **Pella Corporation** and various of its subsidiaries against numerous insurance companies in several Iowa federal court actions in which Pella is seeking insurance coverage for underlying lawsuits pending against Pella, including more than 20 class action lawsuits which allege that certain Pella windows and doors were defective and, as a result, leaked and caused water damage. On November 1, 2016, the team obtained a summary judgment ruling holding that various of the pending lawsuits against Pella alleged a covered "occurrence," defined as an "accident," despite insurers' contention that "foreseeable" damage caused by an insured's defective work cannot give rise to an "occurrence" under applicable Iowa law. Because the existence of an "occurrence" was a threshold issue that Pella must establish in order to obtain insurance coverage, this ruling is significant to Pella's pursuit of insurance coverage.
- Representation of multibillion-dollar window manufacturer and its subsidiaries in various insurance coverage actions against their general liability insurance carriers. These actions collectively seek to recover millions of dollars in defense and indemnity costs that the window manufacturer and its subsidiaries incurred in connection with underlying class action and individual lawsuits.

- Representation of **Warren Pumps LLC** in insurance coverage actions involving dozens of insurance policies sold by nearly 20 different insurance carriers. In August 2011, Keith helped secure the pump company's dismissal from a coverage action brought against the insured in New York Supreme Court. Keith also successfully argued against the insurers' appeal from that dismissal, resulting in a June 2013 affirmance of the dismissal by the New York State Supreme Court, Appellate Division. In November 2012, Keith participated in a three-week trial in Delaware Superior Court that resulted in a decisive jury verdict finding that the pump company was entitled to defense and indemnity coverage for thousands of asbestos claims. This verdict followed an unprecedented 88-page Delaware legal ruling in October 2009 that allowed the pump company to access excess-layer insurance coverage and to allocate liability among those policies on an "all sums" allocation basis. This was the first decision to apply an "all sums" allocation methodology under New York law.
- Representation of a private investment firm that was being investigated by the SEC and DOJ and sought coverage for the costs associated with defending against the investigation, including costs to respond to numerous subpoenas. As a result of this representation, the investment firm procured coverage for almost all of its defense costs.
- Representation of another window manufacturer seeking insurance coverage for two underlying class action lawsuits pending against it in California state court, which resulted in a successful settlement in April 2010.
- Representation of **Philips Electronics North America Corporation and its subsidiary, TH Agriculture & Nutrition LLC**, in an insurance coverage action brought in Cook County, Illinois, against more than 20 insurance companies for coverage of asbestos related liabilities. Plaintiffs ultimately recovered hundreds of millions of dollars.

Recognition and Rankings

- Rated AV Preeminent (4.9 out of 5.0) by his peers in Martindale-Hubbell
- Winner of National Law Journal's 2020 Trailblazers Award for Plaintiffs' Lawyers

- Ranked in _____ in New York for Insurance: Dispute Resolution: Policyholder (Band 3). The 2019 edition notes that he is "*incredibly smart.*"
- Recognized as "Next Generations Partner" - Insurance: Advice to Policyholders by *Legal 500*, 2019-2020
- Recognized by *The Legal 500* as a recommended lawyer in the United States for Insurance: Advice to Policyholders, 2015

Articles

- Co-author, "Coverage for Defense Costs in Consumer Fraud Actions," Co-author with Robin Cohen and Sheri Hametz, *New York Law Journal* (August 12, 2010)