AUDREY L. COPELAND

SENIOR COUNSEL

AREAS OF PRACTICE

Appellate Advocacy & Post-Trial Practice

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OVERVIEW

Audrey Copeland, who joined the firm in 1986, is a member of the Post-Trial Appellate Advocacy Practice Group. She concentrates her practice in the state and federal appellate courts and has litigated matters involving a wide range of substantive and procedural issues including professional liability, civil rights claims, land use, coverage, medical malpractice, product liability, workers' compensation and premises liability.

ADMISSIONS

Pennsylvania
1985

U.S. Court of Appeals 3rd Circuit
1986

EDUCATION

William and Mary Law School
(J.D., 1983)

Colgate University (B.A., cum laude, 1980)

HONORS & AWARDS

Pennsylvania Super Lawyer
2018-2021

ASSOCIATIONS & MEMBERSHIPS

Bar Association for the Third Federal Circuit

Pennsylvania Bar Association

YEAR JOINED

1986

THOUGHT LEADERSHIP

What's Hot in Workers' Comp – Special PA Alert

King of Prussia
Workers' Compensation
June 10, 2024
On May 29, 2024, in the matter of Erie Insurance Property & Casualty Company v. David Heater (Workers' Compensation Appeal Board), No. 148 C.D. 2023, A. Judd Woytek and Audrey L. What's Hot in Workers' Comp – Special PA Alert – June 10, 2024,

Marshall Dennehey Named 2024 Litigation Department of the Year for Appellate Law By ALM's Pennsylvania Legal Awards

Appellate Advocacy & Post-Trial Practice
March 15, 2024
Marshall Dennehey was awarded with the 2024 Litigation Department of the Year for Appellate Law by ALM's prestigious Pennsylvania Legal Awards.
Read More

On the Pulse…Marshall Dennehey Is Happy to Celebrate Our Recent Appellate Victories*

King of Prussia
Philadelphia - Headquarters
Appellate Advocacy & Post-Trial Practice
June 1, 2017
Defense Digest, Vol. 23, No. 2, June 2017

Land Use Litigation – Trends, Exposures and Moral Hazards

Roseland
King of Prussia
Public Entity & Civil Rights Litigation
September 1, 2016
By Howard Mankoff, Esq. and Audrey Copeland, Esq.* Key Points:

PUBLISHED WORKS

"Did the Commonwealth Court Decide the Retroactive Effect of 'Protz'? *Pennsylvania Law Weekly,* October 12, 2017

"Protz: Problems for Practitioners and Politicians," *Pennsylvania Law Weekly,* August 22, 2017

"Land Use Litigation – Trends, Exposures and Moral Hazards," *Defense Digest*, Vol. 22, No. 3, September 2016

"Running Afoul of the Appellate Rules," *The Pennsylvania Lawyer*, March-April, 2006

"On Line Is On Target: the Astonishing Utility of Computer Research," *Pittsburgh Legal Journal,* Vol. 121, No. 114, June, 1995

"The Empire Strikes Back: Payback for the Costs of Proving Yourself Right, " *Defense Digest*, July, 1995

"Pennsylvania Supreme Court Declines Review in Bad-Faith Case, " *Defense Digest*, July, 1995

"Hurry Up and Wait: Consequences for Defendants Under the New Appellate Rules, " *Defense Digest,* Summer, 1994

"High Court Reins in Repose Defense, " *Defense Digest,* Spring, 1994

"Services or Sales? Hospitals, Physicians and Pharmacists and 402A Liability, " *Defense Digest,* Spring, 1994

"Live Birth of a Non-Viable Fetus is Line of Demarcation in Wrongful Death and Survival Act Cases, " *Defense Digest,* Winter 1993, 1994

"Third Circuit Applies "Inferred Intent" in Sexual Abuse of Minors Case, " *Defense Digest*, Fall, 1993

"Third Circuit Affirms Swimming Pool Judgment, " *Defense Digest,* Summer, 1993

"The Sexual Abuse of Minors: Coverage Issues, " *Defense Digest,* Spring, 1992

CLASSES/SEMINARS TAUGHT

In a Pickle: The Implications of Protz, Marshall Dennehey Workers' Compensation Seminar, October 19, 2017

RESULTS

Successfully Represented an Insurance Company in a Workers' Compensation Appellate Matter

Appellate Advocacy & Post-Trial Practice
Workers' Compensation
June 29, 2024
We successfully represented an insurance company before the Commonwealth Court of Pennsylvania. The court agreed with our argument that the claimant needed to provide notice of his work-related injury to the defendant insurance company within 120 days of the occurrence of the injury due to his combined status as sole proprietor/owner and also the employee in this matter. The judges distinguished the facts of the case due to the fact that the claimant was a sole proprietor, owner and the only employee of his own business.

Establishing Failure to Well-Plead Secures a Win for the Defense

Workers' Compensation
November 30, 2023
In our successful appeal to the Commonwealth Court, the workers' compensation judge had awarded a closed period of benefits and then terminated all benefits, despite the employer's late answer. The judge found that the description of injury was not well-pled and, therefore, not deemed admitted. The Appeal Board reversed the judge on the full termination of benefits, saying that, since our IME physician did not acknowledge a work-related psychiatric injury, his testimony was in conflict with the admitted injury due to the late answer.

The Commonwealth Court stands firm on employer credit/retroactivity.

Workers' Compensation
Appellate Advocacy & Post-Trial Practice
April 18, 2023
The Pennsylvania Commonwealth Court ruled in favor of our employer client, holding that it was error to "erase" the 500-week employer credit provided by Act 111 for partial disability benefits paid beginning in 2008, and that the claimant's 2019 reinstatement to total disability status did not retroactively convert those prior partial disability benefits into total disability benefits.

Successful appeal of summary judgment in favor of insurer.

Appellate Advocacy & Post-Trial Practice
Insurance Services – Coverage & Bad Faith Litigation
December 6, 2022
We successfully appealed a summary judgment in favor of an insurance client that had been sued by another insurance carrier for more than $1.6 million in damages arising out of a fire loss to an insured auto repair facility. The opposing insurance company had paid $1.6 million in damages and intended to pursue a product liability claim against a vehicle manufacturer, alleging a defectively manufactured vehicle had caused the fire. Our client insured the vehicle that was allegedly defective.

Workers' compensation judge's decision affirmed.

Appellate Advocacy & Post-Trial Practice
Workers' Compensation
September 28, 2022
We convinced the Commonwealth Court to affirm a workers' compensation judge's decision. The judge had denied the claimant's petition to review a Utilization Review (UR) determination and rejected the claimant's argument that the judge was barred from ruling on UR petitions by the rules of collateral estoppel and issue preclusion.

SIGNIFICANT REPRESENTATIVE MATTERS

Lighthouse Inst. for Evangelism, Inc. v. City of Long Branch, 510 F. 3d 253 (3d. Cir. 2007) was initiated by plaintiff, a self-described" church," to challenge the defendant City's zoning ordinance and superseding Redevelopment Plan. The Third Circuit affirmed the dismissal of the RLUIPA, 40 U.S.C. 2000cc et seq. claim as to the City's Redevelopment Plan holding that the "Equal Terms" provision of RLUIPA requires a plaintiff to show that it was treated less well than a secular organization that has a similar negative impact on the aims of the challenged land-use regulation and reasoning that the purported church was not treated on less than equal terms from secular entities, largely because of a New Jersey State statute which prohibits the issuance of a liquor license to establishments located within 200 feet of a church. The Court also affirmed the dismissal of the alleged church's Free Exercise claim as to both the Redevelopment Plan and the original C-1 Ordinance because its religious exercise was not burdened by the fact that it was excluded from this area of the City. The Third Circuit reversed the grant of summary judgment for the City as to Lighthouse's RLUIPA Claim as to the original, since superseded C-1 Ordinance.

In *Essex Ins. Co. v. Kennedy*, 60 Fed. Appx. 367, 368 (3d Cir. 2003), the Assault and Battery exclusion in insurance policy applied and insurance company was not required to defend or indemnify its insured; additionally, the exclusion applied even though it appeared in an unsigned addendum, thus insurance company was entitled to summary judgment.

Micromanolis v. Woods Sch., Inc., 989 F.2d 696, 697 (3d Cir. 1993) concerned a plaintiff who climbed over a defendant property owner's fence and dove into an unlit "winterized" pool at night, without checking its water level, and who was rendered a quadriplegic. The Third Circuit held that even assuming that the plaintiff was a foreseeable trespasser, the property owner could not be charged with actual or constructive knowledge that a trespasser might dive into the unlit pool without checking the water level and could not be liable for wanton misconduct in failing to take steps to prevent the injuries caused by this activity.

Heath v. Workers' Comp. Appeal Bd. (Pa. Bd. of Prob. & Parole), 860 A.2d 25 (Pa. 2004), remanding to *Heath v. Workers' Comp. Appeal Bd. (Pa. Bd. of Prob. & Parole)*, 867 A.2d 776 (Pa. Cmwlth. 2005) concerned a claim for workers' compensation benefits for psychological injury brought by a claimant who alleged that she was sexually harassed by her supervisor. The Pennsylvania Supreme Court held that although the personal animus exception could not be raised *sua sponte*, a remand was required, whereupon the Commonwealth Court denied the claim due to the claimant's failure to provide the objective evidence necessary for corroboration.

In *Rossino v. Kovacs*, 718 A. 2d 755 (Pa. 1998) summary judgment was affirmed for the defendant property owners, who neither knew nor had reason to know that a police officer was going to enter their property in order to aid the execution of a search warrant, were not liable for the injuries sustained by the officer, who was not a licensee but rather a trespasser on the property under a privilege.

Bethea v. Phila. AFL-CIO Hosp. Ass'n, 871 A.2d 223 (Pa. Super. 2005), appeal denied, 934 A.2d 71 (Pa. 2007) involved the retroactive application of the MCARE Act and the Superior Court affirmed the trial judge's dismissal of the case. The Superior Court held that qualifications for a medical expert under the Act must be met even though the medical malpractice claim was filed prior to the enactment of the Act and the expert's testimony was heard after the enactment. The practical consequences of this ruling were that the expert, who did not possess a valid medical license at the time of trial, was barred from testifying and the plaintiff could not sustain her action.

In *Brown v. Philadelphia College of Osteopathic Med.*, 760 A.2d 863 (Pa. Super. 2000) the judgment on jury verdict for the plaintiffs vacated and case remanded for entry of judgment notwithstanding the verdict in favor of defendant-appellant PCOM, where plaintiffs failed to prove that defendant's conduct in erroneously informing plaintiff that her infant daughter had been born with syphilis was a proximate cause of the alleged harm or show the requisite physical impact to recover for emotional harm as to claims that the diagnosis caused the breakdown of the couples' marriage, physical violence, and loss of employment.

In *Armstrong v. W.C.A.B. (Haines and Kibblehouse)*, 931 A.2d 827 (Pa. Cmwlth. 2007) a work injury was deemed accepted by the employer by virtue of a notice of temporary compensation payable acknowledging the injury and a notice of compensation denial disputing length and extent of disability, but not the occurrence or nature of the injury, pursuant to 77 Pa. Stat. Ann. 717.1.

Schachter v. Workers' Comp. Appeal Bd. (SPS Technologies), 910 A.2d 742 (Pa. Cmwlth. 2006) involved the effect of a disability rating. The Commonwealth Court held that the workers' compensation employer was not precluded from seeking termination of disability benefits by virtue of prior 6 % impairment rating and the reversal of the Judge's attorney's fees award was not error.

REPRESENTATIVE CASES

Ball v. Bayard Pump & Tank Co., 2013 Pa. LEXIS 1039 (Pa. May 28, 2013)

Krushaukus v. WCAB (General Motors), 56 A.3d 64 (Pa. Commw. Ct. 2012)

Papadoplos v. Schmidt, Ronca & Kramer, PC, 21 A.3d 1216 (Pa. Super. 2011)

Rossino v. Kovacs, 718 A.2d 755 (1998)

Nationwide Mutual Insurance Company v. Johnson, 704 A.2d 127 (1998)