



## Jacob C. Cohn

### PARTNER

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### RELATED SERVICES

- Appellate
- Commercial Litigation
- Class Action Defense
- Bankruptcy, Restructuring & Creditors' Rights
- Insurance
- Insurance – Appellate

### OFFICES

- Philadelphia
- Livingston

### OVERVIEW

Jacob (Jack) Cohn is a partner in the firm's Philadelphia office and serves as co-chair of the firm's national Appellate Practice Group. Jack has thirty years of experience in all aspects of trial and appellate practice in both state and federal courts in a variety of complex, high-stakes cases. Currently, he focuses his practice on appeals, commercial litigation, policyholder bankruptcies, insurance coverage, and class action defense.

In his appellate engagements, Jack has argued cases before numerous state and federal appellate courts, including the U.S. Supreme Court. He has obtained precedent-setting results for his clients in areas including insurance coverage and bad faith, class action defense, bankruptcy, civil rights, and constitutional law. His recent trial work includes winning a \$3.1 million federal court breach of contract verdict in favor of a commercial client.

Jack has spoken on topics such as insurance coverage, policyholder bankruptcies, and fidelity and surety law, and has written scholarly commentaries on a number of related issues. He has also been involved in tort reform efforts, including testifying before the Ohio House of Representatives in support of that state's groundbreaking Asbestos Transparency Act, enacted in 2012.

## REPRESENTATIVE EXPERIENCE

### Bankruptcy & Creditors Rights

- Argued before the U.S. Supreme Court in *Travelers Indemnity Company v. Bailey*, 557 U. S. 137 (2009), a widely-followed case involving issues of bankruptcy jurisdiction and the finality of the original 1986 Johns Manville asbestos insurance channeling injunction. On remand to the 2nd Circuit, obtained a ruling that his client was never properly made a party to the original proceedings in a manner consistent with constitutional due process and therefore was not bound by the 1986 injunction, in *Travelers Cas. and Sur. Co. v. Chubb Indem. Ins. Co. (In re Johns-Manville Corp.)*, 600 F.3d 135 (2d Cir. 2010).
- Argued and won a 14-0 decision by the en banc Third Circuit overruling *Graziano*, a 30-year old precedent requiring that consumer disputes under the Fair Debt Collection Practices Act be made in writing, resolving a deepening circuit split on the issue, in *Riccio v. Sentry Credit, Inc.*, 954 F.3d 582 (3d Cir. 2020) (en banc).
- Twice briefed and successfully defended the constitutionality of Pennsylvania's confession of judgment and garnishment procedures before the Third Circuit in *Jordan v. Fox Rothschild, O'Brien & Frankel*, 20 F.3d 1250 (3d Cir. 1994) and in *Sheehan v. Mellon Bank*, Dkt. No. 96-1983 (3d Cir., June 27, 1997).

### Insurance Coverage

- Won complete reversal by the 11th Circuit of a \$1.9 million jury verdict and attorneys' fee award against an insurer in a first-party coverage dispute arising from hurricane damage to three apartment complexes on the basis that the plaintiff, a property management company, lacked a sufficient insurable interest to recover for physical damage to properties the company owned, but did not manage. The case was remanded for entry of final judgment in favor of the insurer. *Banta Properties, Inc. v. Arch Specialty Ins. Co.*, 2014 U.S. App. LEXIS 1419 (11th Cir. Fla., Jan. 24, 2014).
- Represented the insurer in *Rancosky v. Wash. Nat'l Ins. Co.*, 170 A.3d 364 (Pa. 2017), where the Pennsylvania Supreme Court established the legal standard for "bad faith" under that state's 27-year old insurance bad faith statute. Rejecting arguments by the insured, backed by the plaintiffs' bar, to hold that mere negligence should suffice to expose insurers to punitive damages and attorneys' fee awards, the Court adopted a standard that was well within the national mainstream.

- Won summary judgment and prevailed on appeal before the Pennsylvania Superior Court rejecting a homebuilder's argument that CGL policies afford coverage for water damage caused by construction defects. This decision has been repeatedly cited by the 3rd Circuit and other state and federal courts as a leading precedent in this area of the law. *Millers Capital Insurance Co. v. Gambone Brothers Development Co.*, 941 A.2d 706 (Pa. Super. 2007).
- Obtained 2nd Circuit affirmance of a ruling that the September 11 attacks on the World Trade Center constituted one, rather than two, occurrences for insurance purposes, saving an insurance company \$254 million. *SR International Business Insurance Co., LTD. v. World Trade Center Properties*, 467 F.3d 107 (2d Cir. 2006).
- In a major victory for excess carriers, established Pennsylvania and Third Circuit precedent for the proposition that excess insurers with optional defense provisions have no obligation to participate in the defense of their insureds. *AstenJohnson, Inc. v. Columbia Cas. Co.*, 562 F.3d 213 (3d Cir. 2009).
- Saved insurer tens of millions of dollars by obtaining ruling that insurer had no duty to defend drug manufacturer in over 1,500 "Fen-Phen" diet drug products liability cases. *Eon Labs Mfg., Inc. v. Reliance Ins. Co.*, 756 A.2d 889 (Del. 2000).
- In a first party property case, won appellate affirmance of the dismissal on the pleadings of breach of contract and bad claims arising from the denial of a water damage claim on the basis of the policy's negligent maintenance exclusion. Notably, the appellate court affirmed even though it found that the ensuing loss exception to the cited exclusion was ambiguous, finding notwithstanding the ambiguity that the policyholder's proffered interpretation was unreasonable. *Ridgewood Group, LLC v. Millers Capital Insurance Company*, No. 1138 EDA 2016 (Pa. Super. Ct., February 28, 2017).
- Won appellate affirmance of the dismissal on the pleadings of breach of contract and faith claims arising from the denial on the basis of a policy's water damage exclusion of a six-figure claim for property damage arising caused when over 100,000 gallons of water flowed from a burst pipe in a pool house into the ground where it froze causing extensive damage to the pool house and the residence in *Steding v. Mutual Benefit Insurance Company*, No. 1441 WDA (Pa. Super. Ct. May 4, 2017).

#### **Class Actions**

- Won 3rd Circuit affirmance of the summary dismissal of a class action by medical providers challenging an automobile insurer's use of computerized fee review software to adjust claims for medical reimbursement in *St. Louis Park Chiropractic v. Federal Insurance Co.*, No. 08-3808, 2009 WL 2171221 (3d Cir. July 22, 2009).
- In a class action suit brought by radiologists, won reversal of a trial court's holding that New York's no-fault automobile insurers could not deny reimbursement for MRI scans on grounds of lack of "medical necessity." *Long Island Radiology v. Allstate Ins. Co.*, 830 N.Y.S.2d 192 (NY App. Div. 2007).

## Other Representative Engagements

- Represented two State College-area criminal defense and civil rights attorneys in the defense of a malicious SLAPP suit filed against them and others by the sitting District Attorney of Centre County, obtaining Third Circuit affirmance of the dismissal of all claims against his clients in *Parks Miller v. County of Centre, et al.*, No. 16-3753, 702 Fed. App'x 69 (3d Cir., August 02, 2017).
- In a contract dispute, won a \$3.1 million breach-of-contract verdict for a Mexican aquaculture company following a week-long bench trial in the U.S. District Court for the Southern District of New York.
- Won Sixth Circuit affirmance of an Ohio district court's exclusion of a damages expert on *Daubert* grounds and subsequent grant of summary judgment in favor of a patent servicing company that erroneously failed to pay annual maintenance fees in Japan causing a Japanese patent to expire prematurely, in *ASK Chemicals, LP v. Computer Packages, Inc.*, 2014 U.S. App. LEXIS 23444 (6th Cir. December 10, 2014).
- Won summary judgment and prevailed on appeal before the Pennsylvania Superior Court rejecting a homebuilder's argument that CGL policies afford coverage for water damage caused by construction defects. *Millers Capital Insurance Co. v. Gambone Brothers Development Co.*, 941 A.2d 706 (Pa. Super. 2007). This decision has been repeatedly cited by the 3rd Circuit and other state and federal courts as a leading precedent in this area of the law.
- Won reversal of a trial court's holding in a class action suit, brought by radiologists, that New York's no-fault automobile insurers could not deny reimbursement for MRI scans on grounds of lack of "medical necessity." *Long Island Radiology v. Allstate Ins. Co.*, 830 N.Y.S.2d 192 (2d Dept. 2007).
- In a pro bono representation, obtained a \$250,000 settlement for a woman with AIDS after the viatical settlement company that purchased her life insurance policy tried to renege on its contractual obligation to continue paying the woman's health insurance premiums because she had survived for too long.
- Additional representative matters include: *Steadfast Ins. Co. v. Eon Labs Mfg., Inc.*, Del.Super. LEXIS 272 (Del. Super., June 1, 1999), aff'd sub nom., *Eon Labs Mfg., Inc. v. Reliance Ins. Co.*, 756 A.2d 889 (Del. 2000); *Jordan v. Fox Rothschild, O'Brien & Frankel*, 20 F.3d 1250 (3d Cir. 1994); *Collins v. Upper Salford Twp.*, 669 A.2d 335 (Pa. 1995).

## PUBLICATIONS

- Caveat Emptor for § 363 Sales? Known Creditors, Successor Liability and Notice Issues from the GM Chapter 11 Case, *American Bankruptcy Institute Journal*, December 2016
- The Need for Further Transparency Between the Tort System and Section 524(g) Asbestos trusts, 2014 Update – Judicial and Legislative Developments and Other Changes in the Landscape Since 2008, *Widener Law Journal*, 2014

## CREDENTIALS

### Admissions

- Pennsylvania
- New York
- New Jersey
- U.S. Supreme Court
- U.S. Court of Appeals for the First, Second, Third, Fourth, Fifth, Sixth, Ninth, Tenth, Eleventh, and Federal Circuits
- U.S. District Court, Eastern, Middle and Western Districts of Pennsylvania
- U.S. District Court, Eastern, Southern, Northern and Western Districts of New York
- U.S. District Court, New Jersey
- U.S. District Court, Northern District of Illinois
- U.S. District Court, Eastern District of Wisconsin
- U.S. District Court, District of Columbia
- U.S. District Court, District of Maryland
- U.S. District Court, Western District of Oklahoma

### Memberships

- Third Circuit Bar Association, founding member
- American Bankruptcy Institute

### Education

- J.D., *cum laude*, the University of Pittsburgh School of Law, 1988  
- *University of Pittsburgh Journal of Law and Commerce*, Associate Editor
- B.A., History, University of Pennsylvania, 1985

### Honors

- Rated AV Preeminent® by Martindale-Hubbell\*
- *Best Lawyers in America*® distinction in Insurance Law (2016-2025), Appellate Practice (2020-2024)\*
- *Listed in Pennsylvania Super Lawyers*®, a Thomson Reuters publication, 2006, 2011-2024\*
- *Who's Who Legal: Insurance & Reinsurance*, 2016-present
- Pennsylvania Bar Association Pro Bono Award

\*No aspect of this advertisement has been approved by the Supreme Court of New Jersey.

A description of the Martindale-Hubbell selection methodology can be found at:

[https://www.martindale.com/ratings-and-reviews/.](https://www.martindale.com/ratings-and-reviews/)

A description of *Best Lawyers* selection methodologies can be found at: <https://www.bestlawyers.com/methodology>.

The *Super Lawyers*® list is issued by Thomson Reuters. A description of the selection methodologies can be found at:

[https://www.superlawyers.com/about/selection\\_process.html](https://www.superlawyers.com/about/selection_process.html).