



# Stephen Kempa

## Member

## Philadelphia

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Stephen is a member in Cozen O'Connor's Global Insurance Department in Philadelphia. He focuses his practice on both first-party and third-party liability coverage. Stephen also has experience assisting clients on a wide-range of commercial litigation matters.

Stephen graduated with his J.D. from the University of Virginia School of Law and received his Bachelor of Arts, *summa cum laude*, in history and political science from Rutgers. While at UVA Law, Stephen was a member of the *Virginia Law & Business Review* and received a Pro Bono Certificate of Recognition for Pro Bono Service Hours.

## Experience

Won summary judgment for the insurer in a case centering on its denial of a \$1.4 million claim for stolen art work where the plaintiffs failed to prove that a loss occurred during their policy period.

Won a defense verdict in favor of the insurer following a seven-day jury trial in the Eastern District of New York, after 7 years of litigation over an approximately \$50 million insurance claim made by an insured manufacturer of chocolate products for damages from Superstorm Sandy. The insured made a claim under its commercial property policy for damage to its building, machinery, and inventory, as well as its lost profits, arguing that a windstorm deductible endorsement in the policy rendered the policy's flood exclusion ambiguous and that extrinsic evidence did not resolve the ambiguity. In finding for the insurer, the jury found that the available extrinsic evidence demonstrated that the insured had no genuine expectation that a wind-driven flood such as it experienced during Superstorm Sandy would be covered under the policy.

Won summary judgment, and successfully defended appeal of same, for an insurer on a COVID-19 business interruption claim filed in Texas state court for which the client's potential exposure was approximately \$25 million.

Won summary judgment in the U.S. District Court for the Southern District of New York on behalf of the insurer in a case arising from a \$2 million residential arson fire that destroyed the plaintiff's home, as well as a prototype for a new device that was allegedly the subject of a \$300 million contract, together with personal property worth more than \$1 million. After conducting an investigation that revealed that the plaintiff provided untruthful information about the claim, as well as multiple prior foreclosure actions and several bankruptcies, the insurer denied coverage under the plaintiff's homeowner's insurance policy on the basis that the owner of the property had procured the fire, and citing provisions prohibiting "fraud and concealment" and requiring the insured to cooperate with the insurer's post-fire investigation. Despite the high bar for granting summary judgment on the basis of fraud, the court ruled in the insurer's favor, finding that the record established clear and convincing evidence of fraud and concealment enabling the court to rule in favor of the insurer as a matter of law. The court also found that the plaintiff failed to cooperate with the post-fire investigation under the terms of the homeowner's policy by refusing to answer questions about his financial condition and other relevant areas of inquiry.

Won summary judgment on behalf of an insurance company client in a case in which an aluminum products manufacturer sought coverage for defense of an underlying lawsuit and subsequent

## Practice Areas

- Bad Faith
- Insurance Coverage
- Professional Liability Insurance Coverage
- Property Insurance

## Education

- University of Virginia School of Law, J.D., 2014
- Rutgers University, B.A., *summa cum laude*, 2010

## Bar Admissions

- Pennsylvania
- New Jersey

## Awards & Honors

- Pennsylvania Super Lawyers "Rising Star" 2022 - 2024
- Selected to Pennsylvania Super Lawyers "Rising Stars". This award is conferred by Super Lawyers. A description of the selection methodology can be found here. No aspect of this advertisement has been approved by the Supreme Court of New Jersey.

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settlement over its sale of tens of millions of faulty extrusions. In granting summary judgment, the court found that the lawsuit did not constitute an "occurrence" under the definition in our client's policies. This finding was affirmed by the U.S. Court of Appeals for the Third Circuit. The Third Circuit rejected the manufacturer's argument that Pennsylvania law required the district court to look beyond the four corners of the underlying complaint because the underlying action settled after discovery. The Third Circuit also confirmed that "facts matter more than labels" and rejected the manufacturer's reasonable expectations arguments. These aspects of the opinion support insurers' positions across all product lines.

Secured a jury verdict of almost \$1 million on behalf of our insurance company client, which was sued for breach of contract and bad faith by a homeowner whose 11,000 sq. ft. home burned to the ground. After an investigation revealed that the plaintiff was involved in setting the home ablaze, the client denied her claim for violation of the policy's concealment or fraud condition and application of the intentional acts exclusion. The plaintiff sought damages of \$11.2 million, and the client counterclaimed to recover its investigation costs and advance payments made to the plaintiff. After six days of testimony and argument, the jury found in the client's favor after only three hours of deliberation.