



# Abby J. Sher

## Member

## Philadelphia

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Abby Sher practices in the firm's Global Insurance Department. Abby advises clients on issues arising under claims-made insurance policies, with a particular emphasis on managed care liability policies, medical malpractice policies, and life sciences policies. Abby's representative cases involve sexual misconduct claims, opioid litigation, bad faith considerations, and risk retention mechanisms under professional liability and general liability insurance policies.

Abby also has experience counseling clients in the first-party context, providing advice to clients on arson and fraud claims and providing analyses of claims handling obligations in the wake of catastrophic losses, including Superstorm Sandy and Hurricane Irene.

Abby has authored articles and alerts on SIRs and large deductibles, bad faith litigation, and D&O coverage. She also speaks on these topics and related coverage issues on webinars and at industry events and in-house client seminars. Abby regularly conducts training for her clients' claims handlers on topics such as the proper processing of errors and omissions claims.

Abby earned her law degree, *cum laude*, from the University of Pennsylvania Law School where she was senior editor for the *Journal of Constitutional Law*. While in law school, she served as a summer intern for the Honorable Susan Peikes Gantman of the Superior Court of Pennsylvania and as an intern for the Montgomery Child Advocacy Project. Upon graduating, Abby received the Distinguished Pro Bono Service Award for her work with the Anti-Defamation League and the Innocence Project. She earned her undergraduate degree, *cum laude*, from Brandeis University. Prior to joining the firm, Abby participated in the Cozen O'Connor Summer Associate Program.

## Experience

Regularly drafts policy forms and endorsement language for medical professional liability insurers, consistent with regulatory guidelines and the insurers' risk tolerance, and provides advice and counsel regarding the same.

Serves as national coverage counsel for a major insurer under Life Sciences policies in connection with thousands of opioid-related cases.

Represents major insurers in global mediations to enforce policy terms in connection with claims reported under Life Sciences policies and under professional E&O policies.

Represented a major insurer in global mediations to enforce policy terms in connection with class action claims reported under MCE&O (Managed Care Errors & Omissions) policies.

Secured a nominal contribution settlement for a medical professional liability insurer facing initial exposure of \$6 million a coverage dispute stemming from 27 underlying lawsuits alleging sexual misconduct by a physician. The Cozen O'Connor team successfully divided the matter into a single-plaintiff case and a class action, and first won summary judgment in the single-plaintiff matter. We then leveraged that win to negotiate the favorable settlement for our clients.

## Practice Areas

- Professional Liability Insurance Coverage
- Insurance Coverage
- Bad Faith
- Casualty & Specialty Lines Coverage

## Industry Sectors

- Insurance

## Education

- University of Pennsylvania Law School, J.D., *cum laude*, 2010
- Brandeis University, B.A., *cum laude*, 2007

## Bar Admissions

- New Jersey
- Pennsylvania

## Court Admissions

- U.S. District Court -- Eastern District of Pennsylvania
- U.S. District Court -- New Jersey
- U.S. Court of Appeals for the Seventh Circuit
- U.S. Court of Appeals for the Sixth Circuit

## Affiliations

- Claims and Litigation Management Alliance (CLM)
- Professional Liability Underwriting Society (PLUS)
- Louis D. Brandeis Law Society

## Awards & Honors

- Pennsylvania Super Lawyer Rising Star 2015-2020. 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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Represented a major insurer in a related claims matter centering on a managed care policy, leveraging successful motion practice into a favorable settlement for the client.

Secured voluntary dismissal (with prejudice) of claims that insureds brought against our insurance company clients by filing a declaratory judgment action against the insureds. Our complaint sought a declaration that the insureds were not entitled to coverage under three "claims made and reported" policies for a series of underlying lawsuits alleging that the insureds engaged in a fraudulent scheme to direct-market illusory disability policies.

Negotiated a nominal contribution settlement on behalf of a major insurance company client during the course of a multi-day, global mediation of a coverage dispute involving multiple claims stemming from sexual misconduct by a therapist.

Following a 2-week trial centering on a \$4.3 million homeowner's fire loss claim, the Superior Court granted our insurer equitable rescission. Before trial, we successfully moved to dismiss the plaintiffs' bad faith claim. We then convinced the court that the policy which might have covered the loss was void ab initio due to the plaintiffs' material misrepresentations during the application process. In addition, the court found that the plaintiffs had been unjustly enriched by payment to an innocent mortgagee, and entered judgment in our client's favor in the amount of the \$1.4 million payment to the mortgagee.

Won a federal jury verdict in favor of the insurer in a case centering on property damage that we proved was caused by a landslide and thus excluded from coverage. Contending that the exclusion did not apply, the plaintiffs sought over \$6 million under claims for breach of contract and additional damages for, failure to adjust the claim, violations of the Tennessee Consumer Protection Act, and bad-faith refusal to pay. The court granted our motion to bifurcate the trial, and after a 10 day trial, the jury found for our client on the breach of contract claim. This result was affirmed by the U.S. Court of Appeals for the Sixth Circuit.

Won summary judgment in the Supreme Court in related cases involving damage to two New Jersey oceanfront homes during Storm Sandy. The combined claims totaled more than \$5 million, and the coverage dispute centered on the wording of the surface water exclusion in the operative insurance policies, which did not indicate whether the exclusion applied when the water was wind-driven or a storm surge. We convinced the court that the terms of the exclusion unambiguously reached damage caused by a storm surge, that the plaintiffs had no reasonable expectation of coverage, and that they were judicially estopped from arguing that anything other than flood caused the loss. The trial court's decision was affirmed on appeal.

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.