



J. Philip Kirchner

In Memoriam

CHERRY HILL
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Phil Kirchner is a member of the firm's Litigation Department and a former managing shareholder of the firm and past chair of its Litigation Department. He focuses his practice in business litigation and in negotiating international supply, quality and other contracts for his manufacturing clients.

Insurance Counseling & Recovery Practice

Over the course of his career, Mr. Kirchner has handled a number of insurance coverage matters. He has exclusively represented policyholders in disputes with their carriers, both in court and out of court, and he has counseled his business clients in all aspects of insurance coverage, including their coverage needs. He has also negotiated numerous business contracts for his clients, in which the type, amount, and various details of the insurance coverage required for the deal were at issue. The types of insurance issues he has handled over the years have included property and casualty, construction, intellectual property, environmental, business automobile, personal injury, directors and officers, and cyber theft coverage disputes and questions about coverage.

Litigation Practice

Mr. Kirchner concentrates his litigation practice on complex litigation of all types of business issues in both federal and state courts, primarily in New Jersey and Pennsylvania. He has extensive experience representing public and private business entities and individuals in commercial litigation involving trial, arbitration, mediation, and appeals of various business disputes. Over the years, his matters have included contract disputes; insurance coverage claims; disputes among owners of closely held businesses ("business divorce"); employment disputes, including claims of breach of restrictive covenants; trademark infringement and theft of trade secret claims; claims under the state and federal securities laws; antitrust claims; and construction disputes. Mr. Kirchner also represents clients in estate and probate contests involving claims of undue influence, lack of capacity and breach of fiduciary duty. Mr. Kirchner also regularly advises his business clients on strategies for avoiding litigation and for insuring against losses from litigation claims.

Practice Areas

Construction Law
Insurance Counseling and Recovery Law
Labor and Employment Law Litigation

Industry Groups

Alternative and Renewable Energy
Construction
Gaming
Nonprofit & Charitable Organizations

Admissions

New Jersey
Pennsylvania
Supreme Court of New Jersey
Supreme Court of Pennsylvania
U.S. District Court for the District of New Jersey
U.S. District Court for the Eastern District of Pennsylvania
U.S. Court of Appeals for the Second Circuit
U.S. Court of Appeals for the Third Circuit
U.S. Court of Appeals for the Ninth Circuit
U.S. Supreme Court
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Estate Litigation Practice

Mr. Kirchner regularly litigates cases involving disputes over decedents' estates on both the plaintiffs' and defendants' side and also representing executors, trustees, and other fiduciaries. He has prevailed in 2 such cases before the New Jersey Supreme Court. In both cases, he represented a beneficiary accused of exerting undue influence against the decedent, and, in one case, the Supreme Court reversed an adverse ruling against his client making new law in New Jersey. In that case, he had not been involved in the trial but was hired by the defendant to pursue an appeal from an adverse judgment that included an award of significant attorney's fees and costs to the plaintiff. He convinced the New Jersey Supreme Court to reverse the award of attorney's fees, and, in so doing, created new law in New Jersey. The Supreme Court adopted his narrow bright line test for an award of attorney's fees in undue influence cases to clarify what had been an unsettled area of the law. In the second case, after 3 years of discovery, he secured an award of summary judgment dismissing claims against his client for lack of capacity and undue influence, and appointing her executor of her husband's estate. That decision was affirmed on appeal by both the New Jersey Appellate Division and the Supreme Court.

Mr. Kirchner has presented seminars on a variety of substantive topics involving commercial litigation and on a number of litigation practice-related topics, including writing effective briefs, successful discovery techniques, litigating restrictive covenant claims, and the effective use of expert witnesses. He has chaired the Commercial Litigation Committee of the Camden County Bar Association for a number of years. He is also a former editor of *New Jersey Lawyer* magazine. Mr. Kirchner was a Legal Writing Instructor of first-year law students during his third year of law school. He continues his passion for effective legal writing by teaching seminars and running workshops at his firm on various writing topics.

Prior to law school, Mr. Kirchner was a Dean of Students at several major US universities and colleges.

HONORS & AWARDS

- Rated AV® Preeminent™ by Martindale-Hubbell
- Named a New Jersey "Super Lawyer," 2005, 2008 - 2021, 2023, 2024 Business Litigation, by Thomson Reuters, publishers of *New Jersey Super Lawyers*
- Named to the Top Attorney List, Litigation, *SJ Magazine*, 2010, 2012, 2014
- Fellow, Litigation Counsel of America
- Peter Perlman Service Award, 2018, awarded by Litigation Counsel of America
- Mary J. Sherlach Courage Award, 2018, awarded by Mary's Fund charity

Education

- University of Pennsylvania, J.D., *magna cum laude*
- Associate Editor, *University of Pennsylvania Law Review*
- Order of the Coif
- Arthur Littleton Legal Writing Instructor
- Maurer Prize in Criminal Procedure
- University of Vermont, M.Ed., *summa cum laude*
- Villanova University, B.A., *cum laude*

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A description of the standard or methodology on which the accolades are based can be found here. No aspect of this advertisement has been approved by the Supreme Court of New Jersey.

PROFESSIONAL AFFILIATIONS

- Burlington County Bar Association
- Camden County Bar Association
 - Chair, Commercial Litigation Committee
- Philadelphia Diversity Law Group
 - Legal Writing Instructor
- Diversity Law Institute
- Exit Planning Exchange (XPX) - Philadelphia Chapter
- Litigation Counsel of America
 - Senior Fellow
- New Jersey State Bar Association
- Order of Certus
 - Advocate
- Pennsylvania Bar Association
- The Trial Law Institute
- The Association of the Federal Bar of New Jersey
- The Union League of Philadelphia

COMMUNITY ACTIVITIES

- Mental Health Association, Southwestern New Jersey
 - Vice President, Board of Directors
 - Past President, Board of Directors
- Haddonfield Recreation Council
 - Member
- Building Baseball Dreams, Inc., a nonprofit company whose goal is to raise money for inner city youth baseball programs
 - President
- Haddonfield Little League
 - Past president
- Union League of Philadelphia
 - Member

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ARTICLES & ALERTS

How to Avoid Costly Business Litigation: Tip #6 Use Non-Competition Agreements with Your Employees Sparingly
FG Law Blog (September 6, 2022)

'Change Is Coming': Despite ABA Vote, Law Firms Will Face More Rivals Outside the Legal Industry
The American Lawyer (August 10, 2022)

What You Should Include in Your Business Ownership Agreement
FG Law Blog (August 3, 2022)

Ten Tips for Avoiding Litigation: Tip #5 – Treat Your Employees Fairly and Consistently
FG Law Blog (April 15, 2020)

Ten Tips for Avoiding Litigation: Tip #4 - Every Significant Business Transaction Should be Documented
(March 30, 2020)

Ten Tips for Avoiding Litigation: Tip #3 – Check Your Insurance Coverage Frequently to be Sure it Protects Your Business from Exposure to Risk
FG Law Blog (March 24, 2020)

Ten Tips for Avoiding Litigation: Tip # 2: Avoid Doing Business with Members of your Family
FG Law Blog (March 10, 2020)

Tip for Avoiding Costly Business Litigation: Tip#1 - Always Have a Strong Written Agreement to Govern Your Business
FG Law Blog (March 3, 2020)

Will my Arbitration Agreement be Enforced?
New Jersey Law Journal (April 30, 2018)

A Cautionary Tale: Court Gives Employee Handbook Disclaimer Thumbs Down
Legal Alert (February 20, 2018)

Tipping: Servers Fear Trump Rule Could Change Who Controls Tips
The Asbury Park Press (February 2, 2018)

New Jersey Court Sets Limits For Enforcement Of Mandatory Arbitration Clause
Flaster Greenberg Blog (March 7, 2016)

Movin' On Up
Pizza Today Magazine (November 2015)

How Doctors Can Make Their Non-Compete Agreements Rock-Solid
Physicians News Digest (August 7, 2015)

How to Make Your Non-Compete Agreements Rock-Solid
Becker's Hospital Review (June 22, 2015)

The Big Break-Up
Pizza Today Magazine (October 2014)

Continued

How To Avoid Costly Partnership And Shareholder Disputes, But How To Come Out Ahead If Fighting Is Unavoidable

Ed Hitzel's Restaurant Magazine (August 2014)

Slow Down – How to create a successful restaurant partnership, and make it last

Ed Hitzel's Restaurant Magazine (June 2014)

Consequences of New IRS Revenue Ruling Concerning Tax Treatment of Automatic Gratuities

Ed Hitzel's Restaurant Magazine (May 2014)

Employer's "Reasonable Steps" No Longer Enough in Restaurant Sexual Harassment Case

Legal Alert (March 12, 2010)

Stop that. Do that. Using Class Actions for Injunctive Relief

New Jersey Lawyer, vol. 14, no. 44 (October 31, 2005)

Physicians May Be Free to Compete

New Jersey Law Journal, vol. CLXXIX, no. 13, index 1281 (March 28, 2005)

Internal Inquiry Results: The Disclosure Quandary

The Legal Intelligencer (June 3, 2004)