FLASTER GREENBERG
Attorneys at Law | A Professional Corporation

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John G. Koch is a shareholder at Flaster Greenberg and a member of the Insurance Counseling and Recovery, Litigation, and Environmental Practice Groups. He is also the firm's Deputy General Counsel and leads the Attorney Development Program.

John helps business clients recover from their insurance companies or other responsible parties when facing a loss or potential liability. His clients come to him for cost-effective, objective-driven representation. He does not represent insurance companies.

Whether by litigating a case through trial and appeal, using alternative dispute resolution (ADR), or out-of-court negotiations, John has recovered substantial sums for clients under both liability insurance policies and property insurance policies. His clients hail from many industries, such as HVAC and other manufacturing, global food and beverage, big box retail and shopping centers, property management, communications and entertainment, publishing, financial services, and others.

John has represented policyholder clients in matters involving property damage and large business interruption losses, environmental and toxic tort liabilities (CERCLA and hazardous waste, asbestos, silica, hearing loss), business torts, advertising and other “Coverage B” or Media Liability matters, product and construction defects, product recalls, D&O, E&O, Fidelity/Crime, and bad faith.

John has also successfully advanced clients’ interests in the insurance claim process, helping to maximize recoveries and avoid or resolve coverage disputes (if possible) before having to resort to costly and disruptive litigation.

Several clients have tapped John's insurance counseling experience to help close M&A or property transactions that involve contingent liabilities, such as legacy asbestos or environmental issues. For example, John helped a publicly traded manufacturing client acquiring another business to understand and evaluate the target’s projected future asbestos contingent liability risk, the target’s insurance program, and the cost sharing arrangements with contributing insurers. John

Practice Areas

Litigation

Insurance Counseling and Recovery Law

Environmental Law

Industry Groups

Alternative and Renewable Energy

Construction

Retail/Shopping Center

Waste Removal

Admissions

New Jersey

New York

Pennsylvania

U.S. District Court for the Southern District of New York

U.S. District Court for the Eastern District of New York

U.S. District Court for the District of New Jersey

U.S. District Court for the Eastern District of Pennsylvania

U.S. District Court for the District of Colorado

U.S. Court of Appeals for the Third Circuit

then assisted with negotiating risk transfer and indemnity provisions for the successful acquisition.

On the other side of a transaction, John assisted a manufacturing client with contingent asbestos liabilities sell a major business line by negotiating cost sharing agreements with insurers, establishing a Qualified Settlement Fund, and working with a specialty insurance broker to negotiate and place a contingent liability insurance policy. This risk transferring strategy enabled the transaction to close.

John has also helped manage legacy liability cost sharing programs under old general liability policies, which often name corporate predecessors as insureds.

John's environmental practice dovetails with his insurance practice. His clients call upon him to prosecute and defend environmental contribution and cost recovery actions, provide counseling during site remediation, and negotiate with government regulators. John also assists clients with due diligence, risk transfer, and negotiations in transactions involving industrial or contaminated property.

At the helm of the firm's Attorney Development Program, John has organized a variety of educational opportunities for our shareholders and associates to foster financial success, professional well-being, well-roundedness, and a sense of balance. Workshops have included topics such as the fundamentals of building a book of business, how HR is an integral part of a firm and an attorney's success, the fundamentals of understanding a balance sheet, and more.

REPRESENTATIVE MATTERS

- Represented big box retailer in property loss insurance claim arising from Hurricane Maria involving 8 separate commercial buildings. Compelled client's property insurer to pay an additional $15 million above its loss assessment without resorting to litigation. This claim involved "insurable risk" issues, "other insurance" issues regarding the various tenant and landlord obligations, and covered loss issues. In addition, filed suit in New York against a landlord's insurer, recovering an additional $1.3 Million.
- Represented manufacturer with contingent asbestos liabilities in sale of a $50 Million product line. Evaluated the contingent asbestos risk and advocated the results to buyer; assisted in negotiating risk transfer terms and procedures in asset purchase agreement; established a Qualified Settlement Fund and claims procedures; and negotiated the placement and terms of a contingent risk liability insurance policy.

Education

- Villanova University School of Law, J.D.
  - Managing Editor of Outside Articles, *Villanova Environmental Law Journal*
- James Madison University, B.A., Philosophy, Honors Program, *cum laude*

- Convinced a media liability insurer to reverse its attempt to withdraw its defense of a breach of contract and business tort lawsuit against client. The client insured was a seller of a news publication and trade association. The insurer attempted to discontinue paying independent counsel on the eve of trial because only the breach of contract claim remained after summary judgment. The insurer's agreement to continue the defense saved client very substantial legal fees for trial and post-trial briefing.
- Represent client in property and business interruption insurance claim involving almost 100 buildings damaged or closed due to the civil unrest following the killing of George Floyd in 2020.
- Represented publicly traded foreign manufacturing company acquiring a U.S. target with asbestos contingent liabilities. Evaluated and projected contingent risk and costs (with the help of skilled forensic consultants), evaluated the target's insurance coverage program and cost sharing agreements under New York law, and assisted with negotiating indemnity provisions in stock purchase agreement.
- Represent a global food ingredients company identified as a potentially responsible party in the Lower Passaic River Study Area (Diamond Alkali Superfund Site). Defeated the client's insurer's preemptive lawsuit (in trial court and on appeal) in Illinois seeking to avoid coverage for the $1.4 billion cleanup of the Lower Passaic River in New Jersey. In addition, counselled client regarding its defense against USEPA's cost recovery efforts and the defense of related contribution litigation in the District of New Jersey.
- Represented boiler manufacturer in asbestos coverage litigation in the Eastern District of New York. Recovered millions of dollars in past defense and indemnity costs, and negotiated allocated cost share for future claims. In addition, counsel client in connection with managing the insurer-funded defense of existing and future asbestos lawsuits being continually filed in multiple jurisdictions.
- Represented financial investment company in fraud litigation in the Southern District of New York against the principal of a business in which the client invested; successfully settled the case in mediation resulting in the return of millions of dollars to client.
- Represented global prepared foods company in resolving contractual and indemnity disputes with ingredients suppliers involving product recall, and negotiated insurance coverage with implicated insurers.
- Arbitrated over 100 flood insurance claims arising from Hurricane Sandy on behalf of commercial and private property owners, recovering on average over four times more than what FEMA and various insurers initially paid.
- Advised large foreign manufacturing client seeking to acquire contaminated New Jersey industrial facility regarding exposure to environmental risks; defined risks and assisted in structuring asset purchase agreement to minimize risk to buyer legally and practically.
- Obtained full indemnity plus attorneys' fees in New Jersey action against insurers seeking coverage to remediate contaminated industrial property, where remediation was estimated to cost millions of dollars. Prevailed on summary judgment seeking attorneys' fees and declaration of coverage as to non-settling excess insurer respecting its disputed Carter-Wallace share of remediation costs, while counseling client with respect to the underlying cleanup.
- Counselled industrial clients in Ward Transformer Superfund Site in North Carolina, Diamond Alkali Superfund Site in New Jersey, and Ventron Superfund Site in New Jersey.

- Obtained summary judgment ruling in New Jersey holding that client owed no indemnity to contractor for contractor's own negligence under construction contract in multi-million dollar case involving collapse of piers owned by NY & NJ Port Authority. In addition, successfully defeated attempt by client's insurer to avoid its coverage obligation to the contractor as an additional insured under client's policy.
- Obtained summary judgment ruling in the Eastern District of Pennsylvania requiring general liability insurer and separate auto insurer to defend property management company against significant wrongful death lawsuit involving employee's negligence while driving a company car, where both insurers denied coverage claiming the other was responsible.
- Obtained funds from state property-liability insurance guaranty fund for insolvent insurer's share of cleanup costs relating to contaminated site in New Jersey.
- Obtained summary judgment ruling in New Jersey requiring general liability insurer to defend large medical center in mold exposure claim in New Jersey, despite mold exclusion in the policy and despite New Jersey's unique Burd rule; and obtained attorneys' fees for prosecuting coverage action against insurer.
- Obtained 97% contribution to New Jersey client's defense against asbestos lawsuits despite the insolvency of the insurer with the lion's share of time on the risk, and despite other lost policy issues.
- Obtained a $6.5 million judgment after a ten-day bench trial in New Jersey on behalf of former shareholders of privately held corporation (formerly a public corporation) in suit against former officer for breach of fiduciary duties in connection with the sale of the company; issues involved ERISA and withdrawal liability. Filed and settled direct coverage action against former executive's D&O carrier to recover judgment.
- Obtained dismissal of multiple third party claims for Spill Act contribution against industrial client in multi-billion dollar Passaic River litigation in New Jersey.
- Successfully argued Environmental Rights Act and Spill Act matter before the Appellate Division of the New Jersey Superior Court, resulting in a complete upholding of summary judgment dismissing all claims seeking to compel the client's fuel distribution company to remediate the plaintiffs' contaminated property.
- Negotiated a half million-dollar penalty for Clean Water Act permit violation down to a mere seven thousand dollars on behalf of manufacturer in the midst of an asset sale.

HONORS & AWARDS

- Named a New Jersey "Rising Star," 2013 - 2016, by Thomson Reuters, publishers of *New Jersey Super Lawyers* magazine
- Named a Pennsylvania "Rising Star," 2014 - 2016, by Thomson Reuters, publishers of *Pennsylvania Super Lawyers* magazine
- Top Attorney List, Environmental Law, *SJ Magazine*, 2015

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

- RIMS, Delaware Valley Chapter
  - Member, Program Committee

- Pennsylvania Bar Association
- Philadelphia Bar Association
- New York Bar Association
- New Jersey State Bar Association
  - Member, Board of Directors, Environmental Law Section, 2015 - 2018
- Delaware Valley American Environmental Inn of Court – a chapter of the American Inns of Court, that meets monthly to foster excellence in professionalism, ethics, and civility in the legal profession.
  - Past Chair, Membership Committee
  - Past Member, Executive Committee
- *Law 360* Insurance Authority - Property Editorial Board
  - Member - 2023

ARTICLES & ALERTS

Arrowood Indemnity Company Enters Liquidation - Important Deadlines and Implications for Policyholders
Legal Alert (November 10, 2023)

The Impact of Conflict of Law on Insurance Claims
Risk Management Magazine (August 1, 2023)

COVID Insurance Cases Highlight Federal-State Court Tension
Law360 (November 24, 2021)

NY Asbestos Ruling Could Change Insurers' Approach
Law360 (July 2, 2021)

Big Businesses Step Into Pandemic Insurance Coverage Fight
Law360 (April 6, 2021)

Flaster Greenberg Adds 3—Including 2 Alums—to Insurance Recovery Practice
The Legal Intelligencer (August 6, 2020)

Three-lawyer insurance litigation team leaves D.C. firm, returns to Flaster Greenberg
The Philadelphia Business Journal (July 31, 2020)

Who Has to Pay for Periods of Insolvent Insurance in Long-Tail Coverage Claims? New Jersey High Court Changes the Game in Favor of Policyholders
Environmental Claims Journal, Volume 26, Issue 1 (March 2014)

Philadelphia Commercial Buildings Over 50,000 Square Feet Subject to Upcoming Reporting Deadlines under New Energy and Water Use Benchmarking Ordinance
Legal Alert (February 25, 2013)

Remedial Priority Scoring System Goes Live in December
Legal Alert (December 14, 2012)

Congress, Cave Bugs, Courts and the Commerce Clause: Did the Fifth Circuit Figure Out How to Regulate Intrastate Activity Under the Endangered Species Act?
Villanova Environmental Law Journal, vol. 16, no. 309 (2005)