



Keith E. Whitson

Partner

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Keith Whitson is a partner in the Litigation Services Department and is Managing Partner of the Firm's Pittsburgh Office. He concentrates his practice in general commercial litigation, professional liability, product liability, appellate advocacy and mediation. He also has substantial experience in aviation litigation, insurance coverage and environmental law. A member of the Alternative Dispute Resolution Practice Group, he is an approved mediator and early neutral evaluator with the U.S. District Court for the Western District of Pennsylvania and serves in a variety of ADR roles, including settlement counsel.

Mr. Whitson represents corporations facing significant potential liabilities, including claims of environmental contamination, antitrust violations, misappropriation of trade secrets, unfair competition, breach of contract, and product liability involving damages from fires that were believed to have originated in a variety of products, such as a printing press, batteries, UV generators, and at a chemical plant. He regularly represents design professionals in actions involving construction defects or professional liability claims. He also represents companies of all sizes in shareholder disputes, allegations of breach of fiduciary duties and disputes stemming from acquisitions.

Mr. Whitson also has substantial experience advising insurance companies with respect to insurance coverage questions and representing insurance companies in breach of contract, bad faith or declaratory judgment actions.

Representative Matters

Commercial Litigation

- Represented a prominent Pittsburgh-area community leader against securities violations claims related to a bankrupt airline, achieving complete dismissal of the claims against our client after extensive motions removing the case from state to federal court and while distinguishing our client from several other defendants who remain in the case.
- Prosecuted claims for breach of contract on behalf of the owner of a landfill gas to electric facility against the EPC contractor.
- In a CERCLA cost recovery action, obtained a judgment that response costs were divisible, thereby substantially reducing client's potential liability.
- Represented an acquiring company in litigation against seller of the business for misrepresentations regarding the business' client base.
- Defended a national company against allegations that its subsidiaries were the company's alter egos and obtained a judgment in the company's favor.
- Defended a parent company against allegations that it was directly liable for contamination at a subsidiaries' facility, under *U.S. v. Bestfoods*.
- Defended an engineering firm from allegations stemming from a landslide at a municipal solid waste landfill.
- Defended a national cable service provider from a competing cable provider's claims for interference with contract, unfair competition and trespass.
- Represented a printing press manufacturer in litigation arising out of a fire at a commercial printing operation that was believed to have originated in the printing press.
- Prosecuted and defended breach of contract and breach of warranty claims on behalf of numerous clients including manufacturers of thermoplastic composites, medical devices and aircrafts; a real estate firm, a software licensing company, and a civil engineering firm.
- Prosecuted and defended numerous claims of misappropriation of trade secrets, unfair competition, covenants not to compete, and similar claims on behalf of numerous clients including a cardiac monitoring company, a developer of telemedicine products, a manufacturer of air freshening products, a manufacturer of boilers and heat recovery steam generators, and a manufacturer of water purification technology.
- Prosecuted and defended numerous claims involving disputes among shareholders of corporations and members of limited liability companies, including entities involved in construction services, advertising services, and janitorial services.
- Represented a major health care provider in antitrust litigation with a large healthcare insurer and a competing health care provider, whose claims ultimately were dismissed. Led a team of 15 attorneys in extensive discovery efforts including predictive coding, drafted and argued numerous motions, and participated in overall strategy decisions and settlement negotiations.
- Represented an investor in a major film project in litigation with the film's producers over the credits and distributions due to the investor. Negotiated additional credits and distributions as part

of a settlement of all claims.

- Represented potentially responsible parties in CERCLA cost recovery and contribution actions, including a five-week allocation trial which resulted in an allocation of less than 1 percent to the client.
- Represented the Trustee in the bankruptcy proceedings of a large food services company and affiliated entities, and successfully obtained an injunction preventing the president and owner of the bankrupt entities from dissipating assets.
- Represented a national brokerage firm in a dispute as to whether an alleged beneficiary defrauded the client's customer into naming him beneficiary of her brokerage account. Secured a nominal settlement with the alleged beneficiary to preserve the customer's assets.
- Replevied numerous assets, including airplanes, tractor trailers, a fire engine, an ice hockey rink, computer equipment, gasoline and printing presses, on behalf of various manufacturers and lenders
- Prosecuted claims on behalf of a factoring company against account debtors for payment of receivables purchased. Obtained two non-jury verdicts against account debtors and recovered 100 percent of total amount owed to the client.

Professional Liability

- Defended an engineering firm from allegations of professional negligence and breach of contract with respect to the design and construction management of a municipal solid waste landfill.
- Represented an Am Law 100 law firm with respect to allegations of negligence in the creation of a series of trusts.
- Defended an Am Law 100 law firm from claims asserting conspiracy, fraud and violations of the Racketeer Influenced and Corrupt Organizations Act.
- Represented an engineering firm with respect to allegations of an employee's conflicts of interest.

Product Liability and Toxic Torts

- Represented manufacturers of various aviation components in litigation surrounding aircraft accidents, including multidistrict litigation in which all claims against the client were dismissed.
- Represented a manufacturer of printing presses in various product liability actions arising from employees who suffered injuries including de-gloving and amputation while working on those presses. Obtained favorable settlements or complete dismissals in each instance.
- Represented a manufacturer of tungsten carbide in an action involving hard-metal disease in a customer's employee, and successfully negotiated an eight-party settlement.
- Represented a manufacturer of flooring tiles where tiles in a high school building failed to adhere to the underlying concrete, and litigation ensued over the cause of the failure. Client contributed a nominal amount to an overall settlement between numerous parties.
- Represented a manufacturer of corrugated boxes in an action alleging that defective boxes caused the destruction and spoliation of thousands of boxes of vegetables, and achieved a favorable

settlement during trial.

- Represented manufacturers of various products, including brakes, printing presses, pumps, electrical products, cranes, heat exchangers, mufflers and joint compound in asbestos litigation.
- For one client, obtained dismissals or summary judgment in 570 individual cases without paying any amounts in settlements or judgments.
- Represented various manufacturers in litigation over the source of fires that caused extensive property damage.

Insurance Coverage

- Represented insurance carriers in litigation over the applicability of policies to underlying asbestos and other toxic tort litigation, and obtained favorable settlements on behalf of those clients.
- Represented an insurance carrier in negotiations and litigation with an airport authority over claims arising out of the collapse of a runway.
- Represented an insurance carrier with respect to claims arising out of the contamination of a major water supply in a metropolitan area.
- Assisted an insurance carrier with revisions to its policy language in light of lessons learned from a mass disaster.
- Prosecuted declaratory judgment actions and defended breach of contract and bad faith lawsuits on behalf of insurance carriers in multiple states.
- Obtained rescission of an insurance policy based on fraudulent misrepresentations made in the insurance application.

Community and Pro Bono

- Mr. Whitson's community and *pro bono* focus is on diversity and inclusion and protecting rights of recent immigrants. He was part of the Allegheny County Bar Association's Gender Equality Task Force and currently serves on the Gender Equality Committee. He also serves on the Firm's Diversity Committee and is very active on the Pittsburgh Legal Diversity & Inclusion Coalition. He is a member of the Board of Directors of the Women and Girls Foundation.
- Mr. Whitson has assisted dozens of individuals in obtaining asylum or other protected status in the United States, either for themselves or their family members. He also has represented individuals facing deportation in the Immigration Courts and in the Courts of Appeals. He regularly works with Immigration Legal Services, part of Jewish Family and Community Services, and the University of Pittsburgh Immigration Law Clinic. He serves on the board of Legal Services to Immigrants and Internationals.

Education

- Washington University School of Law, J.D., 1993
- Duke University, B.S., 1990

Bar Admissions

- Pennsylvania, 1993
- New York, 1994
- Ohio, 1996
- West Virginia, 2001

Court Admissions

- U.S. Court of Appeals for the Third Circuit
- U.S. District Court, Western District of Pennsylvania
- U.S. District Court, Middle District of Pennsylvania
- U.S. District Court, Northern District of Ohio
- U.S. District Court, Southern District of Ohio
- U.S. District Court, Southern District of West Virginia
- U.S. District Court, Western District of Texas
- U.S. Bankruptcy Court, Western District of Pennsylvania
- U.S. Bankruptcy Court, Northern District of Ohio
- U.S. Bankruptcy Court, Southern District of Ohio

Clerkships

- Honorable Thomas A. Wallitsch, Court of Common Pleas of Lehigh County

Professional Affiliations

- Allegheny County Bar Association, Appellate Practice Committee, Vice-Chair
- Allegheny County Bar Association, Gender Equality Committee
- Allegheny County Bar Association, Public Service Committee
- Allegheny County Bar Foundation, Board of Trustees
- Claims and Litigation Management Alliance
- Defense Research Institute, Appellate Advocacy Committee, Steering Committee
- Leadership Pittsburgh XXVI
- 3rd Circuit Bar Association

Other Distinctions

- Listed in *The Best Lawyers in America* for Commercial Litigation, 2018-2020 and Product Liability Litigation-Defendants, 2020
- Named a "Pennsylvania Super Lawyer," 2017-2020 and a "Pennsylvania Rising Star," 2005, by the publishers of *Law & Politics* and *Super Lawyers*
- Recognized in *Who's Who in Energy*, 2014-17
- Sole recipient of the Client Choice Award for Product Liability in Pennsylvania (*Client Choice Guide - USA & Canada*), 2014
- Recipient of the Earl G. Harrison Pro Bono Award, 2012
- Named as a 2008 "Lawyer on The Fast Track" by *The Legal Intelligencer* and *Pennsylvania Law Weekly*
- Recipient of the Pennsylvania Bar Association Pro Bono Award, 2008

Practices

- Alternative Dispute Resolution
- Appellate Practice
- Energy & Environmental
- Litigation
- Product Liability

Industries

- Aviation
- Higher Education
- Insurance