



Kenneth C. Newa

PARTNER

38505 Woodward Ave., Suite 100

Bloomfield Hills, MI 48304

T: (248) 594-6968 | F: (248) 901-4040

knewa@plunkettcooney.com

Practice Areas

Commercial Litigation

Insurance Coverage Law

Education

- University of Detroit School of Law, cum laude, J.D., 1989
- Michigan State University, Eli Broad School of Business, B.A., Materials & Logistics Management, 1986

Admissions

Michigan, 1990

Ohio, 2011

Indiana, 2012

Wisconsin, 2019

U.S. District Court, Eastern District of Michigan, 1990

U.S. Court of Appeals, Sixth Circuit, 1993

U.S. District Court, Western District of Michigan, 1994

U.S. District Court, Southern District of Indiana, 2001

U.S. District Court, Northern District of Indiana, 2011

Currently or previously

Kenneth C. Newa is a partner in Plunkett Cooney's Insurance Coverage Law Practice Group and a member of the firm's Board of Directors. Mr. Newa is licensed in Michigan, Indiana, Ohio and Wisconsin.

Mr. Newa focuses his practice primarily on representing insurance companies in a wide variety of insurance coverage disputes, including complex, high-exposure coverage litigation relating to environmental, asbestos, toxic tort, manufacturing defects and construction defect claims. Many of these claims involve coverage issues arising from class action lawsuits against policyholders, including claims presented in federal Multi-District Litigation (MDL). Mr. Newa has served in a national counsel role for insurers in Chinese drywall claims, and window defect class action claims involving window manufacturers Pella, WeatherShield, MI Windows and Doors, and Lincoln Wood. These claims typically involve multiple coverage issues, including trigger of coverage, allocation, application of "business risk" exclusions, coverage for "rip and tear," impaired property exclusions, and sistership exclusions, among other issues.

Mr. Newa also dedicates a significant part of his practice to counseling insurers and litigating claims regarding alleged bad faith, alleged breaches of covenants of good faith and fair dealing, and unfair claims settlement practices in states throughout the Midwest.

In addition, Mr. Newa represents insurers in coverage claims based upon COVID-19 losses, and he regularly counsels clients on such diverse issues as coverage for Contingent Time Element claims, life insurance, business interruption and first-party claims arising from cyber security breach and ransomware attacks, intellectual property

KENNETH C. NEWA Cont.

admitted to practice pro hac vice in state and federal courts in Wisconsin, Illinois, Pennsylvania, Missouri, West Virginia and Kentucky

claims, “Coverage B” advertising injury and personal injury claims, “sick building” claims, including claims for indoor air exposure and mold remediation, and directors and officer’s claims. Mr. Newa regularly prepares coverage opinions and proposed coverage position letters on behalf of insurers, and he conducts first-party property coverage analyses, examinations under oath and property appraisals.

Much of Mr. Newa’s representation of insurance carriers has been on a regional basis, including cases pending in Michigan, Ohio, Indiana, Illinois, Wisconsin, Missouri, Pennsylvania, West Virginia, Kentucky, South Carolina, and Florida.

Mr. Newa has also represented product manufacturers and construction companies in construction and product liability cases.

Representative Client Work

- Representing national insurer in coverage litigation regarding coal combustion residuals (CCRs) at coal-fired power plants in several states
- Obtained summary judgment on choice of law and the pollution exclusion for a contaminated site in Indiana
- Representing national insurer in coverage lawsuit over COVID-19 losses
- Represented national carrier in Chinese drywall claims
- Successfully tried \$1,500,000 coverage claim arising from a warehouse fire, obtaining a jury verdict of “no cause for action” (*Flint Distributing v Citizens Insurance*)
- Obtained summary judgment for insurer in Indiana regarding the recovery of “pre-tender” costs in seminal Indiana Supreme Court case (*Dreaded v Travelers*)
- Lead carrier counsel in 400-site environmental property damage coverage litigation (*Aetna v Dow Chemical*)
- Defended primary and excess carriers in large-scale environmental and asbestos coverage litigation (3M mask litigation, Duke Energy, Ericsson, Citizens Gas, Southern Indiana Gas, Public Service of Indiana, Indiana Gas, *Aeroquip-Vickers*, *Pilkington* and *Mallinckrodt* litigation)

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- Filed declaratory judgment action and obtained summary judgment ruling that policyholder must participate in defense and indemnification costs on a *pro rata* basis, and must reimburse the insurer for defense costs advanced on its behalf (*Indiana Insurance v Maul Investments*)
- Obtained summary judgment on behalf of excess and umbrella insurer of employer in \$1,100,000 claim involving catastrophic injuries to employee in the workplace (*Plastipak v US Fire*)

Noteworthy Cases

- *3M* mask coverage litigation
- *Duke Energy* manufactured gas plant litigation
- *Magnetek/Monsanto* PCB litigation
- *Tecumseh Products* property damage litigation
- *Geocel* property damage and bad faith litigation
- *Flexsteel* property damage and bad faith litigation
- *City of Michigan City* property damage litigation
- *Ericsson* property damage and bad faith litigation
- *Mallinckrodt* property damage litigation
- *Pilkington* property damage litigation
- *Aeroquip-Vickers* asbestos litigation
- *Dow Chemical* property damage and bad faith litigation
- *Indiana Gas, PSI, Citizens Gas, and Southern Indiana Gas and Electric Company* manufactured gas plant environmental property damage litigation
- *Cinergy/Duke Power* air emission litigation
- *Eli Lilly* property damage litigation
- *Hi-Mill* property damage litigation
- *Upjohn* property damage litigation
- *Maul Investments* lead paint chip litigation
- *Dreaded* property damage litigation
- *Plastipak* employer intentional injury litigation

Professional Affiliations

- State Bar of Michigan

KENNETH C. NEWA Cont.

- State Bar of Ohio
- State Bar of Indiana
- State Bar of Wisconsin
- American College of Coverage Counsel, Fellow
- DRI (Insurance Law Committee, Bad Faith and CGL subcommittees)
- ALFA International (Insurance Practice Group Steering Committee)
- American Bar Association (Tort and Insurance Practice Section)
- Claims and Litigation Management Alliance

Community Involvement

- City of Grosse Pointe Foundation
- Little Traverse Conservancy, Member

Publications and Lectures

- "When Is It An Occurrence? Trends In Construction Defect Case Law," Panelist, ALFA International 2017 Insurance Law Roundtable, New York, NY, June 14-16, 2017
- "Current Developments in Bad Faith and Punitive Damages," ALFA EPLI Seminar, Author and Panelist, New York, NY, June 7, 2016
- "Out with the Old – In with the New: Coverage for Corporate Successors," American Bar Association's Midyear Program, titled: "Finding Balance in the Shifting Sands of Insurance Coverage," Presenter, Phoenix, Arizona, Feb. 26, 2011
- "Out of Thin Air: An Examination of Vapor Intrusion and the Availability of Insurance Coverage for Vapor Intrusion Claims and Lawsuits," New Appleman on Insurance, Current Critical Issues in Insurance law, Author, Fall 2009
- "Ohio Court of Appeals Applies 'Absolute' Pollution Exclusion to Inhalation of Carbon Monoxide Fumes," Author, August 2000
- "Michigan Supreme Court Affirms ARCO Allocation Decision," Author, August 2000
- "Illinois High Court: 'Other Insurance' Clause Does Not Entitle Insurer to Contribution," Author, August 2000
- "Sixth Circuit Adopts Trigger and Allocation Rulings Under Ohio Law," Author, August 2000
- "Environmental Coverage Issues In Ohio, Wisconsin, and Illinois" seminar, Presenter, May 2000
- "Coverage For Construction Defect Claims" seminar, Presenter, March 2001

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- “Keeping the Lid on the Liability Case in Construction Disputes,” Presenter, Michigan Concrete Association, January 1995
- “Coverage For Construction Defect Claims; Claims of Additional Insureds” seminar, Presenter, December 2006

Honors & Recognitions

- American College of Coverage Counsel, Fellow
- Best Lawyers in America® for Insurance Law, 2018 - 2024
- Martindale-Hubbell® Peer Rated for High Professional Achievement-Distinguished
- Michigan Super Lawyer in Insurance Coverage, Michigan Super Lawyers, 2010 - 2011, 2013 - 2017, 2023
- Leading Lawyer in Insurance, Insurance Coverage & Reinsurance Law / Toxic Torts Defense Law, Leading Lawyers Magazine Michigan, 2021
- Top Lawyer in Insurance Law, dbusiness Magazine, 2014 - 2016, 2018, 2020 - 2021, 2023
- Top Lawyer in Construction Litigation, dbusiness Magazine, 2020
- University of Detroit General Scholarship Award
- American Jurisprudence Award—Remedies
- American Jurisprudence Award—Real Estate Transactions
- Dean’s List, Michigan State University