



## Thomas J. Smith

### Co-United States and Pittsburgh Managing Partner

Pittsburgh  
+1.412.355.6758

[thomas.smith@klgates.com](mailto:thomas.smith@klgates.com)

#### OVERVIEW

Thomas J. Smith has practiced at K&L Gates since 1987 and is the managing partner of the Pittsburgh office. The Pittsburgh office is the firm's largest office, with approximately 180 lawyers. Tom also serves as the co-managing partner for the firm's U.S. offices.

Tom is a trial lawyer, who has litigated a wide variety of commercial matters, and has been lead counsel in jury trials, bench trials, and international arbitrations, including environmental, insurance coverage, breach of contract, and other commercial disputes. He is a member of the firm's Trial Lawyer Academy. Tom was lead counsel for a plaintiff hedge fund manager in a September 2016 jury trial in New Jersey state court in which his client obtained a jury verdict for defamation in the amount of \$40.4 million. The verdict is listed as the 45th-highest in the National Law Journal's Top 100 Verdicts of 2016. The verdict was upheld by the New Jersey Supreme Court in November 2019, and the judgment has been paid by the defendant.

Tom's other significant successes in jury trials include a Clean Water Act enforcement action brought by the U.S. DOJ against a steel industry client and a bad faith verdict obtained against an insurer in an environmental insurance coverage case, both federal court cases. He obtained a successful resolution for a U.S. university in an international arbitration against a Chinese company in which Chinese law was at issue. Tom's litigation and trial experience extends to numerous jurisdictions, including California, Connecticut, Massachusetts, New Jersey, New York, Pennsylvania, Texas, Washington and Wisconsin, as well as in Canada.

Tom recognized very early the impact that the proliferation of electronically stored information (ESI) would have on litigation discovery and trials, and founded in 2004 the firm's e-Discovery Analysis and Technology (e-DAT) Group, for which he is the Co-Chair. The e-DAT Group was one of the first e-discovery practice groups established at a major law firm. He has counselled clients for more than a decade on a broad range of ESI issues, has spoken at national and regional e-discovery conferences, and has published many articles and newsletters on ESI issues (see below). He is a contributing author in the PBI Press book entitled "eDiscovery," published most recently in 2018. He is a charter member of the E-Discovery Special Master panel for the United States District Court for the Western District of Pennsylvania, and is a former member of Working Group 1 of The Sedona Conference, a leading e-discovery think tank. He has served as an adjunct professor for a post-graduate course on e-discovery at Duquesne University in Pittsburgh.

Tom is also a founding faculty member of the firm's mini-MBA program, an innovative professional development training program designed to orient associates to key business concepts that are integral to our clients' business success.

## PROFESSIONAL / CIVIC ACTIVITIES

- Named as "Acaritas Star" in SharpLegal Survey
- Adjunct Professor (former), e-Discovery and Civil Litigation, Duquesne University
- The Sedona Conference Working Group 1, Member (2010-2016)
- Allegheny County Bar Association
- Federal Bar Association
- Pennsylvania Bar Association
- Former Commissioner, Pine Township Planning Commission
- Former Council Member, Allegheny County Bar Association Environmental Law Section
- Lawyer Coach, Pennsylvania High School Mock Trial Competition, 2006 to 2015
- President of the Board for the Christian Legal Aid Clinic

## SPEAKING ENGAGEMENTS

- Federal Rule Changes Affect e-Discovery - Are You Ready This Time?, December 3, 2015
- Pittsburgh Friends of eDiscovery Meeting, Panelist Regarding FRCP Amendments, June 18, 2015
- eDiscovery Symposium Judicial Roundtable, Moderator and Panelist, April 17, 2015
- "The FBA E-Discovery Series," Federal Bar Association, Panelist with W.D. Pa. Federal Judges, November 20, 2014
- eDiscovery Symposium Judicial Roundtable, Moderator and Panelist, April 2014
- "Get Ready for E-Discovery," The Center for Association Leadership, October 21, 2013
- "Everything You Should Know About E-Discovery That's Wrong," Panelist, Adam Smith, Esq. Webinar, September 12, 2012
- Cyber Threats, Forensics Investigation and Electronic Discovery, Moderator, Pittsburgh, Pennsylvania, September 13, 2011
- "Friends of E-Discovery" Meeting, Pittsburgh, Pennsylvania, Moderator, September 7, 2011
- "Electronic Discovery: What Every Lawyer Should Know," presented to the Virgin Islands Bar Association on June 18, 2010 in St. Croix, Virgin Islands

- “E-Discovery: Strategies, Trends and Best Practices,” Webinar for Ethisphere presented on June 10, 2010
- Thirteenth Annual EDRR Conference presented on October 7-8, 2009 in New York, New York
- “E-Discovery and Records Management Workshop,” CLE presented on September 17, 2009 in Moline, IL
- “What Every In-House Attorney Needs to Know About Records Management,” September 2, 2009, Podcast presented with JurlInnov Ltd.
- “E-Discovery 101 Seminar,” CLE presented on July 29, 2009 in Chicago, IL
- “E-Discovery” Seminar by the Pennsylvania Bar Institute, Presentation entitled “E-Discovery Explorers,” December 9, 2008, in Pittsburgh, PA
- “Judicial Views on the Use of E-Discovery Experts at the Rule 16 and Rule 26(f) Conferences and Court-Appointed Special Masters,” panelist at the Federal Bar Association E-Discovery Series, December 3, 2008, in Pittsburgh, PA
- “Advanced E-Discovery Issues,” presented at T-BoLT (The Best of Legal Technology) Conference, November 11, 2008 in Pittsburgh, PA
- Berman & Company Legal Council Presentation on E-Discovery, October 3, 2008, Washington, D.C.
- K&L Gates Alert: “E-Discovery and the EHB,” October 2008
- “Scenes from an e-Discovery Case,” presented with Integrator of New Systems, July 30, 2008 in Pittsburgh, PA

## EDUCATION

- J.D., Duquesne University School of Law, 1987 (*Member, Law Review; Assistant Editor, Law School Magazine Juris*)
- B.A., Carnegie Mellon University, 1981 (*cum laude; Technical Writing*)

## ADMISSIONS

- Bar of Pennsylvania
- United States Court of Appeals for the Third Circuit
- United States District Court for the Eastern District of Michigan
- United States District Court for the Western District of Pennsylvania

## OTHER PUBLICATIONS

- Editor, Electronic Discovery Website ([www.ediscoverylaw.com](http://www.ediscoverylaw.com))

- eDiscovery, *Spoliation of Evidence: The Duty to Preserve Records Relevant to Litigation*, PBI Press, Fourth Edition, 2017
- Co-Author, “eDiscovery,” book published by PBI Press, updated edition 2017
- K&L Gates Alert: “Will the Federal e-Discovery Rules Change Again? A report on the proposed changes to the Federal Rules of Civil Procedure,” August 2013
- K&L Gates Alert: “Electronic Discovery Law - Must Parent and Attachment Files Be Kept Together?,” February 9, 2012
- "*Madison Construction Co. v. Harleysville Mutual Insurance Co.*: The Pennsylvania Supreme Court Takes Its First Look at the Absolute Pollution Exclusion," *Journal of Insurance Coverage*, Winter 2000

## NEWS & EVENTS

- 6 April 2020, K&L Gates Adds U.S. Deputy Assistant Attorney General as Investigations, Enforcement and White Collar Partner in Washington, D.C., Office (*Press Release, Practice & Regional News*)
- 10 July 2019, K&L Gates Litigation Partner Confirmed to Judgeship with U.S. District Court for the Western District of Pennsylvania (*Press Release*)
- 4 June 2019, K&L Gates Adds Pittsburgh Labor and Employment Partner (*Press Release, Practice & Regional News*)
- 23 January 2018, K&L Gates Welcomes Returning Pittsburgh Lawyer as Emerging Growth and Venture Capital Partner (*Press Release*)
- 6 March 2017, K&L Gates Names Pittsburgh Partner as 2017 Leadership Council on Legal Diversity Fellow (*Press Release*)
- 8 October 2015, K&L Gates, University of Pittsburgh School of Law Team to Offer K&L Gates Diversity Fellowship (*Press Release*)

## AREAS OF FOCUS

- E-Discovery Analysis and Technology (e-DAT)
- Complex Commercial Litigation and Disputes
- Insurance Recovery and Counseling
- K&L Gates Trial Academy

## REPRESENTATIVE EXPERIENCE

- Lead trial counsel for a plaintiff hedge fund manager in a September 2016 jury trial in New Jersey state court. False statements about the plaintiff had been published in a series of industry background check reports by

the defendant background reporting service. Obtained a jury verdict for defamation in the amount of \$40.4 million. The verdict was the 45th-highest verdict in the United States of America in 2016 as reported in the National Law Journal's Top 100 Verdicts that year. The verdict was upheld by the New Jersey Supreme Court in November 2019, and the judgment has been paid by the defendant.

- Lead trial counsel in comprehensive environmental insurance action against two dozen insurers to recover costs for defense and clean-up of major environmental site at Passaic River, New Jersey. Case settled before trial.
- Lead trial counsel in suit against insurers to recover costs for defense and indemnity related to toxic tort claims. Bad faith claim also asserted against certain insureds. Case set for jury trial in 2020.
- Co-lead trial counsel in 5-week federal jury trial for plaintiff industrial client in which bad faith verdict was obtained against an insurer in an environmental insurance coverage case. Damages awarded included punitive damages. Verdict upheld on appeal.
- Lead trial counsel in 6-week federal jury trial for defendant steel company in Clean Water Act enforcement action brought by the U.S. DOJ. Defendant found not liable on 99.9% of 5,000 claims. Represented client in Third Circuit appeal of civil penalty, and obtained reversal and remand for new penalty trial, after which the matter settled.