



Frederic J. Giordano

Partner

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OVERVIEW

Fred Giordano focuses his practice on insurance coverage litigation and counseling and complex civil and commercial litigation.

Fred's insurance coverage practice is limited to representing policyholders. On the front side, he helps clients assess their risks and evaluate potential insurance coverage before claims even arise. He reviews insurance policies and programs and advises clients regarding the scope of their existing coverage and implementing potential improvements. He works closely with a policyholder's insurance broker, as appropriate, and has helped draft custom policy language. When claims do arise, Fred helps clients maximize their insurance recovery by negotiating, mediating, or litigating as necessary. Recognizing that unnecessary legal expenses can drain a company's resources, Fred carefully assesses his clients' claims at the inception of matters and recommends whether or not they should pursue their claims before embarking on cases. Once engaged, Fred collaborates with his clients and seeks the best and most efficient results for their businesses. Often, such results can be achieved through negotiation, but Fred litigates to protect his clients' rights and interests when insurers are unwilling to resolve claims fairly and equitably.

Fred has litigated and counseled clients with respect to claims under a wide variety of insurance policies, including private equity fund management liability, management and professional liability, directors and officers liability, errors and omissions liability, fiduciary liability, workers' compensation and employers liability, commercial general liability, business owners, commercial automobile, and owner-controlled insurance programs ("OCIPs"). Among other things, he has secured insurance coverage for clients for informal U.S. Securities and Exchange Commission ("SEC") inquiries, formal and informal SEC investigations, class action securities lawsuits, derivative actions, and lawsuits alleging property damage, serious bodily injury, and construction defects. He also has handled disputes for coverage under homeowners', builders' risk, and property policies, including Superstorm Sandy claims.

Fred further helps companies implement effective risk transfer. He has drafted, reviewed, and revised many contractual insurance procurement and indemnification provisions. He has particular experience with respect to the impact of anti-indemnity statutes and case law that limits the scope of indemnification for construction claims in many jurisdictions.

Fred also litigates a variety of other civil and commercial matters. By way of example, he has handled disputes over warehouse lending facilities and other loans, liens, construction defects, defective products, fraud, consumer fraud, and multiple instances of breach of contract. He has arbitrated numerous cases involving breaches of agreements to purchase real property and defended developers, builders, and product manufacturers in personal injury and property damage actions.

Finally, Fred has published and lectured on, and continues to speak and write about, numerous insurance and indemnity-related topics. He served as Chair of the Insurance Law Section of the New Jersey State Bar Association for the 2017-2018 term. He currently serves on the Insurance Law Section's Executive Committee.

PROFESSIONAL BACKGROUND

Prior to joining K&L Gates, Fred was a partner at a Newark law firm, where he focused his practice in the areas of insurance coverage and related construction issues. He also served as a member of the Board of Trustees of New Jersey Reads, a nonprofit organization dedicated to improving literacy skills of children and adults in New Jersey.

ACHIEVEMENTS

The *New Jersey Law Journal* named Fred to its 2008 “40 Under 40” list, an annual look at 40 promising young professionals in New Jersey’s legal community.

PROFESSIONAL / CIVIC ACTIVITIES

- New Jersey State Bar Association
- Regis Bar Association
- Fred Giordano currently serves as the Pro Bono Coordinator of the Newark office

SPEAKING ENGAGEMENTS

- “Understanding & Managing Cyber Risk,” *Association of Corporate Counsel of New Jersey 18th Full Day CLE Conference*, September 22, 2020
- “Free Money: Insurance Coverage under Policies Issued to Other Companies,” *Association of Corporate Counsel New Jersey 16th Annual Full Day CLE Conference*, September 20, 2019.
- “IC in AC—Insurance Coverage in Atlantic City,” 2018 NJSBA Annual Meeting, May 17, 2018.
- “Hot Button Issues in Insurance Law: 2018,” *New Jersey State Bar Association Insurance Law and Insurance Defense Special Committee*, January 20, 2018.
- “A Primer on Directors and Officers and Similar Professional Liability Insurance,” *Association of Corporate Counsel New Jersey 14th Annual Full Day CLE Conference*, September 16, 2016.

- “Overview, New Developments, and Ethical Considerations: Additional Insured Coverage and Contractual Indemnification,” *New Jersey State Bar Association 2016 Annual Meeting and Convention*, May 19, 2016.
- “Practical Tips for Mediating Liability and Coverage Claims,” *New Jersey State Bar Association Dispute Resolution and Insurance Law sections CLE program*, April 7, 2015.
- “A Primer on Directors and Officers and Similar Professional Liability Insurance,” *New Jersey Corporate Counsel Association 12th Annual Full Day CLE Conference*, September 19, 2014.
- “An Introduction to Corporate Insurance,” *New Jersey Corporate Counsel Association 11th Annual Full Day CLE Conference*, September 20, 2013.
- “Best Practices in Construction Claims and Disputes Management,” *K&L Gates and Marsh Conference: Legal and Insurance Lessons Learned from Major Catastrophic Events and Constructions Claims*, September 10, 2013.
- “Are Construction Defects ‘Occurrences’ Under General Liability Insurance Policies?,” *Leading Builders of America General Counsels Meeting*, November 15, 2012.
- “Insurance 101: A Basic Level Introduction to Corporate Insurance,” *New Jersey Corporate Counsel Association 10th Annual Full Day CLE Conference*, September 21, 2012.
- “Major Construction Projects: Key Risk and Insurance Strategies,” *K&L Gates & Marsh Sponsored Seminar*, October 6, 2011.
- “Contractual Indemnities and Insurance: Not Always Perfect Together,” *New Jersey Corporate Counsel Association 9th Annual Full Day CLE Conference*, September 23, 2011.
- “Protecting Lender Interest in Borrower Insurance Proceeds: Navigating Insurance and Bankruptcy Issues in Commercial Lending,” *Strafford Publications CLE Webinar*, April 12, 2011.
- “Insurance Issues in Negotiating and Closing Financing Transactions,” *The Association of Commercial Finance Attorneys, Inc. Meeting*, September 20, 2010.
- “Saving Money through Risk Transfer: Practical Advice on Effectuating Indemnification and Additional Insured Coverage,” *The National Catholic Risk Retention Group, Inc. 19th Annual Winter Meeting*, February 2, 2010.
- “Insurance Issues Arising Out of the Financial Crisis – What Should You Do to Protect Your Company,” *New Jersey Corporate Counsel Association 7th Annual Full Day CLE Conference*, September 24, 2009.
- “‘Free Money’ Insurance Coverage under Policies Issued to Other Companies,” *New Jersey Corporate Counsel Association 6th Annual Full Day CLE Conference*, September 18, 2008.
- “Maximizing Insurance Coverage for Directors and Officers,” guest lecturer in *Mergers and Acquisitions*, Professor Robert T. Miller, *University of Pennsylvania Law School and Villanova University School of Law*, April 2008.

- “What Bank Directors and Officers Should Know (And Not be Afraid to Ask) About D&O Liability Insurance Coverage,” presented to *The New Jersey League of Community Bankers, Senior Management Conference*, September 2006.
- “Directors and Officers Insurance Issues,” guest lecturer in *Mergers and Acquisitions*, Professor Robert T. Miller, Villanova University School of Law, April 2006.

EDUCATION

- J.D., Brooklyn Law School, 1995 (*Brooklyn Journal of International Law*, 1993-1995; *Executive Articles Editor*, 1994-1995)
- B.A., Columbia College, 1992 (*cum laude*)

ADMISSIONS

- Bar of New Jersey
- Bar of New York
- United States District Court for the District of New Jersey
- United States District Court for the Eastern District of New York
- United States District Court for the Southern District of New York

THOUGHT LEADERSHIP POWERED BY HUB

- 6 May 2020, COVID-19: Congress, Pennsylvania, Michigan, and South Carolina Join Other Jurisdictions Proposing Legislation Addressing Insurers' Obligations to Pay for Pandemic-Related Losses (*Alerts/Updates*)
- 6 April 2020, COVID-19: Growing Number of U.S. States Propose Legislation Requiring Insurers to Pay for COVID-19-Related Losses Incurred by Small Companies (*Alerts/Updates*)
- 20 March 2020, COVID-19: New Jersey Assembly Introduces Legislation to Provide Small Companies With Business Interruption Coverage for COVID-19 Losses (*Alerts/Updates*)
- 17 May 2018, The Tenth Circuit's Prediction: New York State Likely to Follow Trend Recognizing Damages Caused by Subcontractor's Faulty Work is a Covered "Occurrence" (*Research Surveys*)
- 16 May 2018, The Tenth Circuit's Prediction: New York State Likely to Follow Trend Recognizing Damages Caused by Subcontractor's Faulty Work is a Covered "Occurrence" (*Alerts/Updates*)
- 3 November 2017, New Jersey's Manifestation Destiny: Appellate Division Applies Continuous Trigger to Claims for Progressive Third-Party Property Damage and Highlights Fact-Sensitive Nature of Manifestation Date (*Alerts/Updates*)

- 20 June 2017, Policyholders Beware: New York Court of Appeals Restricts Additional Insured Coverage Under Common Policy Endorsement to Injuries Proximately Caused by Named Insured (*Alerts/Updates*)
- 23 February 2017, Policyholders Win Again: The New Jersey Supreme Court Voids Insurance Policy Anti-Assignment Clauses in Occurrence-Based Insurance Policies for Post-Loss Claims (*Alerts/Updates*)
- 6 November 2015, Maryland General Contractor Wins Coverage Under Subcontractor's Additional Insured Endorsement; Coverage Not Limited to Vicarious Liability (*Alerts/Updates*)
- 13 July 2015, New Jersey Developer Wins on "Occurrence" and "Property Damage"; Appellate Division finds Subcontractors' Faulty Construction within Insuring Agreement; *Parkshore* Abrogated (*Alerts/Updates*)

OTHER PUBLICATIONS

- "New Jersey Supreme Court Gives Supreme Win to Policyholders," *Lexology*, 5 August 2016
- "Recoupment of Defense Costs: An Ohio Court Weighs in on the Debate," *FC&S Legal*, 3 April 2016
- "NJ Finally Joins Trend: Consequential Damage Is Covered," *Law360*, 4 August 2015
- "Late Filing Under a Claims-Made vs. An Occurrence-Based Policy: Appellate Division Rejects Precedent," *New Jersey Law Journal*, July 24, 2014.
- "Real Estate Seller's Duty to Disclose Mold Conditions," *Mealey's Litigation Report: Mold, Volume 2, Issue No. 3*, March 2002.
- "Selecting Expert Witnesses in Mold Litigation," *Mealey's Litigation Report: Mold, Volume 1, Issue No. 10*, October 2001.

AREAS OF FOCUS

- Insurance Recovery and Counseling
- Complex Commercial Litigation and Disputes
- Construction and Infrastructure
- Construction and Infrastructure Dispute Resolution
- International Arbitration