



## Kevin Merriman

Partner

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585.454.0749

Business Litigation & Counseling

Construction

Insurance Recovery & Counseling

## PROFILE

Concentrating in insurance law, Kevin counsels corporate and institutional clients in a broad range of insurance, risk transfer, and risk management issues, and works with their brokers and insurers to customize insurance programs. Kevin works efficiently to meet his clients' business objectives and to deliver desired outcomes. As a problem-solver, he provides thoughtful strategic analyses and practical counseling to minimize disputes.

When required, Kevin zealously represents his clients in complex insurance recovery disputes for, among other claims, asbestos, pollution, construction defect, product liabilities, cyber-attacks, and bad-faith. He also assists his clients with insurance recoveries from foreign and domestic insolvent insurers. Kevin's recent experience includes successfully representing a Fortune 500 company in insurance recovery litigation for asbestos-related liabilities and in related bankruptcy proceedings. He currently serves

as coverage counsel for a national construction firm serving the utilities, communications, and government sectors.

In addition to insurance coverage disputes, Kevin has defended toxic tort claims for multiple clients throughout New York State, and in mass tort, multi-district, and class action litigation.

Kevin writes and speaks often on insurance law issues for national trade and professional associations, including the American Law Institute, Defense Research Institute, the Property Liability Research Bureau, and the New York State Bar Association. In his spare time, he enjoys sailing on Lake Ontario, and training for and competing in triathlons.

## Representative Experience

- *Mt. McKinley Insurance Company v. Corning Incorporated*, Index No. 602454/02, New York State Supreme Court, County of New York  
Represented corporate policyholder in litigation against multiple insurers to secure insurance coverage for long-tail asbestos claims. The litigation produced several reported decisions affecting the rights of policyholders for long-tail asbestos claims.
- *In Re Pittsburgh Corning Corporation*, No. 00-22876-TPA, U.S. Bankruptcy Court for the Western District of Pennsylvania  
Represented debtor's corporate shareholder in Chapter 11 proceeding to secure a plan of reorganization and formation of a \$3 billion asbestos personal injury trust under section 524(g) of the U.S. Bankruptcy Code.
- *KeySpan Gas East Corp. v. Munich Reinsurance America Inc.*, 31 N.Y. 3d 51(2018)  
Represented policyholder advocacy group in *amicus curie* brief to New York's high court addressing a seminal issue affecting the allocation of insurance to multiple triggered policies for long-tail environmental claims.

## CREDENTIALS

### Education

- University at Buffalo School of Law, State University of New York, J.D., 1992
- Cornell University, School of Industrial and Labor Relations, B.S., 1989

## Admissions to Practice

- New York
- Pennsylvania
- U.S. Court of Appeals, Third Circuit
- U.S. District Courts of New York (Western, Northern)
- U.S. Bankruptcy Court (Western District of Pennsylvania) - *pro hac vice*

## ACTIVITIES

- American College of Coverage Counsel
  - *Fellow*
  - *Co-Chair, Publications Committee, 2014-2018*
  - *Nominating Committee, 2017*
  - *Membership Committee, 2018-present*
- Litigation Counsel of America
  - *Senior Fellow*
- Defense Research Institute
  - *Member, Insurance Law Committee*
  - *Chair, Publications Committee, 2006-2007*
  - *Steering Committee - 2007 Insurance Coverage Practice Symposium*
- New York State Bar Association
  - *Torts, Insurance and Compensation Law Section*
  - *Insurance Law Committee*
- Monroe County Bar Association
- Erie County Bar Association

## PRESENTATIONS & PUBLICATIONS

- "Effective Risk Transfer: Indemnification and Insurance in Construction Contracts." *ROBEX Magazine*, Builders Exchange of Rochester, November 2018. (Co-Author)
- "A Critical Element of Proper Claims Handling: The Duty to Settle Third Party Claims." *In-House Defense Quarterly*, Spring 2018. (Co-Author)
- "Effective Diversity Initiatives: The Case for Collaboration." *ACC Docket*, vol. 35, no. 8, October 2017. (Co-Author)

- "Labor Law Claims, Coverage & Litigation." New York State Bar Association, May 2016, Buffalo.
- "Risk Management Seminar." Bar Association of Erie County, April 2016, Buffalo.
- "Insurance Coverage Update." New York State Bar Association, May 2015, Syracuse.
- "Cloud Computing: Navigating the Coming Storm." LCA Fall Conference, October 2014, New Orleans.
- "A New Trend under Construction: Faulty Workmanship as an Occurrence." *For The Defense*, vol. 56, no. 5, May 2014. (Co-Author)
- "Social Media Liability Exposures & Coverage." PLRB Annual Claims Conference, March 2014, Indianapolis.
- "Environmental Coverage Claims." New York State Bar Association, May 2012, Buffalo.
- "Coverage for Construction Defect Claim: The CGL Conundrum." PLRB Annual Claims Conference, April 2012, Orlando.
- "The Electronic Frontier: Coverage for Social Media and Blogging." New York State Bar Association, May 2011, Syracuse.
- "Coverage for Construction Defect Claims: George Fuller and its Recent Progeny." New York State Bar Association, June 2010, Buffalo.
- "Additional Insured Coverage: Hot Topics & Critical Issues for 2009." New York State Bar Association, May 2009, Buffalo.
- "Coverage for Construction Defect Claims: The CGL Conundrum." PLRB Annual Claims Conference, April 2008, Boston.
- "Insurance Coverage and Indemnity Issues." Summer Judicial Seminar, New York State Judicial Institute, June-July 2007, Rochester, Uniondale and Hauppauge, New York.
- "Construction Defects Claims and Coverage." *Defense Research Institute*, 2007. (Editor)
- "Big Unknowns for *Science of the Small*." *For The Defense*, vol. 49, no. 5, May 2007. (Co-Author)
- "2006—A Year in Review for the Insurer: How Discovery Can Impact Bad Faith Litigation." *Mealey's Litigation Report: Insurance Bad Faith*, vol. 20, no. 21, 6 March 2007. (Co-Author)
- "The Shell Game—Misrepresentations and Concealment." Insurance Coverage Practice Symposium, Defense Research Institute, December 2006, New York City.

- "The Duty to Defend—A Statewide Survey." Insurance Coverage and Claims Institute, Defense Research Institute, May 2006, Chicago.
- "Insurance Coverage for Construction Defect Claims." New York State Bar Association, May 2006. (State-wide Planning Chair)
- "The Gentleman's Disagreement—Recent Trends in Reinsurance Law." *For The Defense*, vol. 48, no. 5, May 2006. (Co-Author)
- "Reinsurance: The New Battlefront." Insurance Coverage Practice Symposium, Defense Research Institute, December 2005, New York City.
- "Insurer's Duty to Defend: A State Law Compendium." *Defense Research Institute*, 2005. (Editor)

## RECOGNITION

- Martindale-Hubbell AV Preeminent®, Rated 5.0/5.0
- Selected to *The Best Lawyers in America*®  
– *Insurance Law* (2016 "Lawyer of the Year" Rochester, NY)
- Selected to *New York Super Lawyers*®
- *Buffalo Law Journal's/Business First, Who's Who in Law*, 2006
- Sheldon Hurwitz Young Lawyer Award presented by the Torts, Insurance & Compensation Law Section of the New York State Bar Association for outstanding contributions to the practice of insurance law, January 23, 2002

## COMMUNITY

- Ignatian Volunteer Corp  
– *Buffalo Region Advisory Council, 2014-2017*

## TESTIMONIALS

- "I have worked with **Kevin Merriman** of Ward Greenberg Heller & Reidy and found his work to be excellent regarding insurance coverage."  
– *Anonymous, U.S. News – Best Lawyers® "Best Law Firms"*
- "I have known **Kevin Merriman** of Ward Greenberg Heller & Reidy professionally for more than a dozen years; he is a superb attorney. His writing is excellent, and he is the embodiment of civility in the profession."  
– *Anonymous, U.S. News – Best Lawyers® "Best Law Firms"*