



Charles F. Kellett

Partner

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Charlie Kellett is an experienced commercial litigator with a substantial background in a broad range of civil litigation subject areas, including professional liability, appellate practice, general business litigation, employment law, insurance coverage and general liability. Charlie is a zealous advocate with extensive experience successfully arguing on behalf of his clients before federal and state court judges at both the trial and appellate levels in New Jersey and New York. Charlie's litigation clients have included private individuals, law firms, accounting firms, insurance brokerages, construction companies, Fortune500 companies, small business owners and their businesses, and non-profits, amongst others.

Charlie is also a trusted advisor who regularly counsels corporate entities regarding litigation, contractual and regulatory concerns. Charlie's corporate clients have ranged from Fortune500 companies to local businesses in his hometown of Cranford, New Jersey.

Education

- University of Michigan (B.A., 2006);
- Seton Hall University School of Law (J.D., 2009)

BAR ADMISSIONS

- New Jersey;
- New York;
- U.S. District Court for N.J.;
- U.S. District Court for S.D.N.Y.;
- U.S. Second Circuit Court of Appeals; and
- U.S. Third Circuit Courts of Appeals.

REPRESENTATIVE MATTERS AND APPELLATE DECISIONS:

- *Amerestate Holdings, LLC v. CBRE, Inc.*, 2018 WL 4201126 (App. Div. Sep. 4, 2018) – Successfully argued before the Appellate Division that client was entitled to key discovery in a multi-million dollar commercial real estate litigation under implicit and explicit waiver principles found in the attorney-client privilege doctrine.
- *Issa v. Lloyds of London*, 2020 WL 6479186 (App. Div. Nov. 4, 2020) – Obtained summary judgment in New Jersey state court on behalf of insurance producer client in \$1.3 million professional negligence claim arising out of a purported robbery of plaintiff’s jewelry store. Successfully argued to the court that Plaintiff’s claims, which alleged that his insurers denied his claims for coverage arose from insurance producer client’s negligent or fraudulent failure to secure the appropriate record-keeping endorsement on his policy, required expert testimony and proof as to proximate causation. Consequently, Plaintiff’s claims were denied due to a failure to provide such proofs. Subsequently, successfully briefed and argued matter before the Appellate Division, which affirmed the dismissal of the case.
- *Estate of Picon v. FBR Grp.*, 2013 WL 5610862 (App. Div. 2013) – Obtained summary judgment in New Jersey state court on behalf of insurance producer client in \$5 million professional negligence claim arising out of plaintiffs’ sale of two insurance policies on the life settlement market. Successfully argued to the court that plaintiffs’ execution of a release at the time of the sale for “amounts arising out of the sale of the policies” applied to plaintiffs’ allegations that the insurance producer negligently advised plaintiffs to sell the subject policies. Subsequently, successfully briefed matter before the Appellate Division, which affirmed the dismissal of the case.
- *Veryzer v. Am. Int’l Life Assur. Co. of New York*, 2013 WL 5733327 (2d Cir. 2013) – Obtained summary

judgment on behalf of insurance company in federal court arising out of plaintiff's multi-million dollar claim for disability benefits. Successfully argued before the court that plaintiff's submissions regarding his alleged mercury poisoning offered no objective evidence that he suffered from demonstrable brain damage sufficient to avoid the application of the two-year mental health benefits limit. Subsequently, successfully briefed matter before the United States Court of Appeals for the Second Circuit, which affirmed the dismissal of the case.

- *AIS Risk Consultants, Inc. v. Moffett*, 2011 WL 5137836 (App. Div. 2011) – Successfully upheld partial dismissal of claims against client actuary based upon counterclaimant/third-party-plaintiff's lack of standing. Appellate Division held that the dismissed claim asserted against the actuary was derivative in nature, as the counterclaimant/third-party-plaintiff was only harmed in that it lost income because of the resulting insolvency of the actuary's direct client.
- Provided counsel and pre-suit litigation advice to medium-sized New Jersey general home contracting company regarding contractual issues, drafting new form contract for use with clients addressing concerns regarding pandemic-related volatility in lumber pricing and ensuring compliance with applicable state laws and regulations regarding construction contracts.
- Prosecuted shareholder dispute on behalf of majority shareholder of a regional paper manufacturer and distributor while simultaneously defending suit on behalf of the company against its largest debt-holder. Eventually amicably resolved both matters, ending in the drafting and formation of a new joint venture between the majority shareholder and the debt-holder which was financed, in part, through proceeds obtained through settlement of the shareholder dispute action.
- Obtained summary judgment on behalf of defendant accountant on claims of fraud and professional negligence relating to purported failure to disclose to a corporate shareholder non-client the existence and valuation of loans made by primary shareholder to the corporation – a client of the accountant. After oral argument, the court held that defendant accountant did not owe any such duty to a non-client arising from his status as a shareholder of a corporate client and that any claims that the accountant made affirmative misrepresentations failed on their face in light of the plaintiff's testimony.
- Obtained summary judgment on behalf of defendant law firm on claim of fraud by former client. Former client claimed that statements made by the firm in connection with their retention regarding ability to present case despite the plaintiff's failure to file an affidavit of merit within the normal statutory timeframe amounted to actionable fraud. After oral argument, the court held that plaintiff's allegations, even if true, would not support a claim for fraud as the purportedly fraudulent statements merely amounted to legal opinion which would not have been unreasonable under the circumstances
- Obtained summary judgment on behalf of accounting firm in New Jersey state court on plaintiff's \$6 million professional negligence claim arising out of the firm's alleged failure to detect plaintiff's president's ongoing fraud against the company. Successfully argued before the court that accounting firm's disclosure of the fraud in 2004 to plaintiff's CEO triggered the statute of limitations and that plaintiff's claim, asserted in 2011 was beyond New Jersey's six-year statute of limitations.

Publications and Honors:

NJ's Legalization Legislation: The First 180 Days, *New Jersey Law Journal*, July 12, 2021, by Robert Berns & Charles Kellett

Collateral Deaths from COVID-19 Create Additional Exposure for Nursing Homes and Long-Term Health Care Facilities, March 26, 2021, by Aaron Cargain & Charles Kellett

Overriding the Attorney-Client Privilege in Nonlegal Malpractice Cases, *Westlaw*, May 9, 2018, by Robert Berns & Charles Kellett

Your Client Said Goodbye, *New Jersey Law Journal*, January 16, 2017, by Robert Berns & Charles Kellett

Don't 'Poke' The Bear: Using Social Media To Investigate, *Law360*, May 5, 2016, by Charles Kellett

The Importance of Defining an Accountant's Duties in Retention Agreements, October 10, 2017, by Robert Berns & Charles Kellett

2015 - 2021 SuperLawyers New Jersey Rising Star*

*The Super Lawyers list is issued by Thomson Reuters. A description of the selection methodology can be found at www.superlawyers.com/about/selection_process_detail.html. No aspect of this advertisement has been approved by the Supreme Court of New Jersey.

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Volunteer Experience

- Supreme Court's District Ethics Committee for District XII;
- Cranford Township Committee's Cannabis Legislation Working Group.

Practice Areas

- Litigation
- Business Litigation
- Fiduciary Litigation
- Professional Liability

- Corporate Law
- Employment