

Michael W. Horner

Partner

Co-Chair, Healthcare Group and Managing Partner, Cherry Hill, NJ Office

Cherry Hill, NJ

t: 856.317.3658

f: 856.317.3608

Philadelphia, PA

t: 215.864.7044



Mike has extensive experience litigating, mediating and arbitrating complex catastrophic cases throughout multiple jurisdictions.

OVERVIEW

Michael Horner's litigation and counseling experience spans several decades in the areas of healthcare, catastrophic loss and employment matters in multiple state and federal jurisdictions.

He has extensive experience litigating, mediating and arbitrating complex catastrophic cases throughout multiple jurisdictions in the Northeast. His high-stakes trial practice includes product liability, construction site liability, medical malpractice, transportation law, workplace safety, commercial premises liability, dram shop liability and commercial contract disputes.

Mike represents tertiary and community hospitals, healthcare systems and physician practice groups in matters involving medical malpractice, health information technology, Medicaid (RAC) appeals, patient dumping, HIPAA, peer review, opioid administration, among other matters encountered by the healthcare industry.

Mike's practice frequently involves the defense of insured and self-insured local, national and multinational companies facing potential exposure in the millions of dollars for injuries ranging from death, traumatic brain injury, quadriplegia, paraplegia, loss of limb, property loss and business interruption. He also has significant experience litigating cases involving product recalls. Mike's catastrophic loss practice often involves assembling a trial-tested team of catastrophic loss lawyers and trying or mock trying the case on short notice.

Mike has significant experience litigating a wide variety of employment-related disputes involving age, gender, disability and race discrimination, non-compete and restrictive covenants and fraud in state and federal courts and agencies in New Jersey and Pennsylvania. He has tried multiple employment disputes to jury verdict and obtained temporary restraining orders and permanent injunctions in several jurisdictions related to non-compete and confidentiality matters.

PRACTICES

Catastrophic/Excess Liability

Commercial Litigation

Healthcare

Labor and Employment

Litigation

BAR AND COURT ADMISSIONS

New Jersey

New York

Pennsylvania

U.S. Court of Appeals for the Third Circuit

U.S. District Court for the District of New Jersey

U.S. District Court for the Eastern District of New York

U.S. District Court for the Southern District of New York

U.S. District Court for the Eastern District of Pennsylvania

U.S. District Court for the Middle District of Pennsylvania

EDUCATION

Widener University School of Law, JD, 1996

Rutgers University, BA, 1991

MEMBERSHIPS

American Bar Association

Burlington County Bar Association

Camden County Bar Association

New Jersey Bar Association

RECOGNITION AND INVOLVEMENT

Mike is named among *The Best Lawyers in America*® for 2023 and 2024 for Litigation-Insurance.

In addition to his law practice, Mike gives back to the community by serving as a board member and volunteer for the Medford Arts Center and as a board member for Mimosa Lakes Community Association. Prior to practicing law, Mike managed his family's garden and pool business and was a sportswriter for New Jersey and Philadelphia high school, college and professional sports.

Pennsylvania Bar Association

Philadelphia Bar Association

REPRESENTATIVE MATTERS

Healthcare Practice Group Wins Issue of First Impression in the Superior Court of New Jersey, Appellate Division
8.14.20

Represented large, multi-state physician practice group in matter involving information blocking of electronic health records (EHR) by a health information technology vendor; Obtained multiple temporary restraining orders over a seven-month period which maintained access and use of the client's EHR; Tried multi-week, binding arbitration before retired federal court judge that led to a comprehensive plan for migration of over 10 years of EHR data (approximately 100 terabytes) from prior EHR vendor to new EHR vendor, all while maintaining client's access and use. (Superior Court of N.J., Chancery Division, Burlington County)

Obtained summary judgment for internationally renowned tertiary care hospital in case involving brain-injured newborn allegedly caused in part by negligent laboratory communications. (Superior Court of N.J., Camden County)

Represented international furniture manufacturer in product liability action against alleging defective design of dressers resulting in tip-over and three fatal accidents of toddlers in Pennsylvania, Minnesota and Washington. All three cases involved product recall issues and settled at mediation for a total of approximately \$50 million. (Court of Common Pleas, Philadelphia County)

Obtained an unanimous defense jury verdict on behalf of a regional material handling service and supply company after a six-week trial involving wrongful death and survival claims. Plaintiff alleged damages arising from negligent maintenance of a pallet truck involved in a warehouse accident. Retained as lead counsel shortly before initial trial date with a demand at \$15 million. (Superior Court of N.J., Camden County)

Represented American subsidiary of multinational printing company involving former employee's violations of non-compete and restrictive covenant provisions in employment contract. (Superior Court of N.J., Chancery Division, Middlesex County)

Represented American subsidiary of multinational tooling manufacturer in breach of contract, theft/conversion and NJ RICO case against former CEO and director alleged to have stolen over \$500,000 from company. (Superior Court of N.J., Gloucester County and U.S. Bankruptcy Court for District of N.J.)

Handled over 25 Recovery Audit Contractor (RAC) Medicaid appeals to New Jersey's Medicaid Fraud Division of the Comptroller's Office involving disputes related to inpatient care for two community hospitals.

Represented subcontractor employer of catastrophically injured plaintiff against multiple contractual indemnity claims in a case involving a fall from height at a construction site involving New York's Labor Law. Retained after 10 years of litigation and conclusion of fact discovery. Case settled after our development of forensic engineering expert evidence diverting liability to non-indemnatee parties. (Supreme Ct. of N.Y., N.Y. County)

Represented international sporting goods manufacturer in a product liability action involving a youth aluminum baseball bat that allegedly permitted dangerous batted ball speeds. The Plaintiff was a 12-year-old male pitcher hit in the chest with a batted ball causing commotio cordis (extremely rare condition whereby heart stops) and subsequent catastrophic brain injury. Settled on the eve of trial after mediation and mock trial. (Superior Court of N.J., Passaic County)

Represented an international engineering/construction services company in a construction site accident case where an ironworker alleged traumatic brain injury after being struck by a knuckle boom crane. Retained ten days before trial with a \$10 million demand. Filed five motions *in limine*, retained and served five expert reports (lifecare, economics, vocational, life expectancy and liability) and joined subcontractor employer for contractual indemnity all within ten days. Case settled for \$1.5 million (partially structured and less than half economic damages) after four days of trial. (Superior Ct. of N.J., Middlesex County)

Represented civil engineering company against allegations of improper traffic detouring in a construction zone in a case involving a bicycle/motor vehicle accident resulting in catastrophic brain injury of a minor. Retained after seven years of litigation and with discovery completed and trial imminent. Case settled at mediation after our expert development of causation and damages defenses. (Supreme Ct. of N.Y., N.Y. County)

Represented regional manufacturer of industrial equipment in wrongful death action in which baler crushed decedent; favorable settlement for client prior to significant discovery. (U.S. District Court for Southern District of New York)

Represented professional power boat racing driver in spectator accident in the Chesapeake Bay involving multiple plaintiffs, including one fatality of a minor. Case settled at mediation. (U.S. District Court for Maryland)

Represented local hotel owner/operator in wrongful death/survival action and traumatic brain injury premises liability action involving four-story fall through hallway window in Atlantic City hotel; retained as lead counsel less than two months before initial trial date; favorable settlement for client after approximately two weeks of trial. (Superior Court of N.J., Camden County)

Represented regional real estate broker and obtained summary judgment in breach of contract and emotional distress case brought by former independent agent. (Superior Court of N.J., Burlington County)

Represented multinational residential furniture retailer/manufacturer in product liability case which arose from death of three-year-old female; retained as lead counsel after discovery; favorable settlement at mediation for client. (Court of Common Pleas, Philadelphia County)

Represented nationwide retailer and garage door opener manufacturer in product liability case where four-year-old plaintiff was rendered a spastic quadriplegic when she was trapped beneath a garage door. (U.S. District Court for the Western District of Pa.)

Represented nationwide energy supplier in premises liability case in which a 30-year-old plaintiff medical student suffered debilitating spinal injuries; retained as lead counsel after discovery and one-month prior to trial; high-low agreement secured favorable settlement for the client after a four-week jury trial. (Court of Common Pleas, Philadelphia County)

Represented board of education in a fatal bus accident case involving a two-year-old pedestrian girl; retained as co-counsel at conclusion of discovery and obtained favorable settlement for client on eve of trial. (Superior Court of N.J., Middlesex County)

Represented nationwide industrial manufacturer of packaging equipment in a product liability case in which 29-year-old forklift operator sustained spinal injuries rendering her wheelchair-bound; retained as lead counsel and obtained favorable settlement for client on first day of trial. (Court of Common Pleas, Westmoreland County, Pa.)

Represented nationwide trucking company in fatal commercial trucking accident involving deceased physician; retained as co-counsel near the conclusion of discovery and obtained favorable settlement for client on eve of trial. (Superior Court of N.J., Essex County)

Local counsel for a nationwide tire distributor in class action alleging defective Chinese manufactured tires; client dismissed without payment. (U.S. District Court for District of N.J.)

Local counsel for a multinational motor vehicle manufacturer in class action for alleged defective seatback mechanisms; client dismissed on summary judgment. (Superior Court of N.J., Camden County)

Obtained defense jury verdict for local franchise of nationwide cleaning company in case involving disability discrimination. (Superior Court of N.J., Gloucester County)

Obtained defense jury verdict for multinational transportation company in Family and Medical Leave Act case based upon pregnancy discrimination. (U.S. District Court for Eastern District of Pa.)

IN THE NEWS

Best Lawyers® Recognizes 45 White and Williams Lawyers
Firm News, 8.18.23

Best Lawyers® Recognizes 40 White And Williams Lawyers
Firm News, 8.18.22

Anthony Miscioscia Recognized by JD Supra 2021 Readers' Choice Awards
3.31.21



The Ninth Annual Coverage College Features True-to-Life Case Study
10.8.15

EVENTS

Physician Navigation of the Opioid Crisis
LHS Health Network Physicians Business Meeting (Cherry Hill,NJ), 4.26.18

Visual Storytelling: Using Graphics and Animation to Advance Your Case
Philadelphia Association of Defense Counsel, 4.17.18

Damages: What Do They Want and What Can They Get?
White and Williams Coverage College, 10.8.15

PUBLICATIONS

Pennsylvania Hospitals Provided a Path to Offset Ostensible Agent Liability
Healthcare Practice Client Alert, 8.14.23

Electronic Medical Records May Be Subject to On-site Inspection
Healthcare Practice Client Alert, 5.2.23

Information Blocking: What Providers and Programmers Need to Know
Part One: Ramped Up Enforcement Against Healthcare Providers
Healthcare Alert, 4.22.22

PA Supreme Court Limits Exceptions to Otherwise Time-barred Childhood Sexual Abuse Cases Against Institutional and Corporate Entities
Litigation Alert, 7.21.21

Are Telehealth Laws Here to Stay? A Survey of Legislation in NJ, DE, NY, PA and MA
Healthcare Alert, 3.30.21

Door Shut on Reviving All Time-Barred Childhood Sexual Abuse Claims, but Many Plaintiffs Can Still Get Into Court Through the Window...
Litigation Alert, 2.3.21

Protecting Access to Post-COVID-19 Telehealth Act Reintroduced to Congress
Healthcare Alert, 1.28.21

CMS 2021 Proposed Home Health Payment Rule May Make Certain Telehealth Changes Introduced During COVID-19 Pandemic Permanent
Healthcare Alert, 6.30.20

Telehealth and Medical Liability
MDedge Med Tech Report, 6.24.20

Liability in the Telehealth Era

Healthcare Alert, 6.18.20

New Jersey Wants You to Return to Your Doctor's Office

Healthcare Alert, 5.22.20

Governor Wolf Signs Executive Order Providing Limited Immunity to Healthcare Providers

Healthcare Alert, 5.8.20

Not Remotely Law as Usual: Don't Settle for Delays – Settle at Remote Mediation

Part Two of the Series Addressing How Technology is Changing the Litigation Landscape

Litigation Alert, 4.3.20

Not Remotely Law as Usual: Remote Depositions – The Same But Different

General Litigation Alert, 3.31.20

Recent District Court Decision Provides for Molded Verdict to Offset Tax Consequences of Lump-Sum Award

Labor and Employment Alert, 7.30.18