

KENNETH C. NEWA



Partner

38505 Woodward Ave.
Suite 2000
Bloomfield Hills MI 48304

TEL: (248) 594-6968
FAX: (248) 901-4040
knewa@plunkettcooney.com

Kenneth C. Newa is a partner in the firm's Bloomfield Hills office and is the Co-chair of the firm's Insurance Coverage Practice Group. Mr. Newa focuses his practice principally upon the representation of insurance companies in a wide variety of insurance coverage disputes, including complex, high-exposure coverage litigation relating to environmental, asbestos, toxic tort and construction defect claims.

Mr. Newa also regularly counsels clients on such diverse issues as coverage for allegedly defective Chinese drywall, intellectual property claims under advertising injury and personal injury coverages, "sick building" claims, including claims for indoor air exposure and mold remediation, application of business risk exclusions in a variety of contexts, and trigger of coverage and allocation of damages issues. Mr. Newa regularly prepares coverage opinions and proposed coverage position letters on behalf of insurers; and conducts first party property coverage analyses, examinations under oath, and property appraisal.

Much of Mr. Newa's representation of insurance carriers has been on a regional basis, including the representation of insurers in cases pending in Michigan, Ohio, Indiana, Illinois, Wisconsin, Missouri, Pennsylvania, West Virginia and Kentucky.

Mr. Newa has also represented product manufacturers and construction companies in construction and product liability cases.

Mr. Newa is a member of Plunkett Cooney's Board of Directors.

Areas of Practice

- Commercial Litigation
- Insurance Law

Honors & Awards

- Michigan Super Lawyer in Insurance Coverage, Michigan Super Lawyers, a Thomson Reuters publication, 2010 & 2011
- University of Detroit General Scholarship Award
- American Jurisprudence Award—Remedies
- American Jurisprudence Award—Real Estate Transactions
- Dean's List, Michigan State University

Education

- University of Detroit School of Law, cum laude, J.D., 1989
- Michigan State University, B.A., Business (Materials & Logistics Management), 1986

Bar & Court Admissions

- Michigan, 1990
- Ohio, 2011
- U.S. District Court, Eastern District of Michigan, 1990
- U.S. Court of Appeals, Sixth Circuit, 1993
- U.S. District Court, Western District of Michigan, 1994
- U.S. District Court, Southern District of Indiana, 2001
- U.S. District Court, Northern District of Indiana, 2011
- Currently or previously admitted to practice pro hac vice in state and federal courts

Representative Client Work

- Representing national carrier in Chinese drywall claims
- Successfully tried \$1,500,000 coverage claim arising from a warehouse fire, obtaining a jury verdict of “no cause for action”
- Obtained summary judgment for insurer in Indiana regarding the recovery of “pre-tender” costs in seminal Indiana Supreme Court Case (*Dreaded*)
- Lead carrier counsel in 400-site environmental property damage coverage litigation
- Defended primary and excess carriers in large-scale environmental and asbestos coverage litigation
- Filed declaratory judgment action and obtained summary judgment ruling that policyholder must participate in defense and indemnification costs on a *pro rata* basis, and must reimburse the insurer for defense costs advanced on its behalf
- Obtained summary judgment on behalf of excess and umbrella insurer of employer in \$1,100,000 claim involving catastrophic injuries to employee in the workplace

Noteworthy Cases

- *Mallinckrodt* Environmental Property Damage Litigation
- *Pilkington* Environmental Property Damage Litigation
- *Aeroquip-Vickers* Asbestos Litigation
- *Dow Chemical* Environmental Property Damage Litigation
- *Indiana Gas, PSI, Citizens Gas, and Southern Indiana Gas and Electric Company* Manufactured Gas Plant Environmental Property Damage Litigations
- *Cinergy/Duke Power* Air Emission Litigation
- *Eli Lilly* Environmental Property Damage Litigation
- *Hi-Mill* Environmental Property Damage Litigation
- *Upjohn* Environmental Property Damage Litigation
- *Maul Investments* Lead Paint Chip Litigation
- *Dreaded* Environmental Property Damage Litigation
- *Plastipak* Employer Intentional Injury Litigation

Professional Affiliations

- Detroit Metropolitan Bar Association

in Wisconsin, Illinois, Indiana,
Pennsylvania, Missouri, West
Virginia and Kentucky

- State Bar of Michigan (Environmental Law and Negligence sections)
- Association of Defense Trial Counsel
- American Bar Association (Tort and Insurance Practice Section)
- DRI - The Voice of the Defense Bar (Insurance Law Committee; Bad Faith and CGL subcommittees)

Publications and Lectures

- “Out with the Old – In with the New: Coverage for Corporate Successors,” Presenter, American Bar Association’s Midyear Program, titled: “Finding Balance in the Shifting Sands of Insurance Coverage,” Phoenix, Arizona, Feb. 26, 2011
- “Out of Thin Air: An Examination of Vapor Intrusion and the Availability of Insurance Coverage for Vapor Intrusion Claims and Lawsuits,” New Appleman on Insurance, Current Critical Issues in Insurance law, Fall 2009
- “Ohio Court of Appeals Applies ‘Absolute’ Pollution Exclusion to Inhalation of Carbon Monoxide Fumes,” article, August 2000
- “Michigan Supreme Court Affirms ARCO Allocation Decision,” article, August 2000
- “Illinois High Court: ‘Other Insurance’ Clause Does Not Entitle Insurer to Contribution,” article, August 2000
- “Sixth Circuit Adopts Trigger and Allocation Rulings Under Ohio Law,” article, August 2000
- “Environmental Coverage Issues In Ohio, Wisconsin, and Illinois,” seminar, May 2000
- “Coverage For Construction Defect Claims,” seminar, March 2001
- “Keeping the Lid on the Liability Case in Construction Disputes,” lecture, Michigan Concrete Association, January 1995
- “Coverage For Construction Defect Claims; Claims of Additional Insureds,” seminar, December 2006

News

- Plunkett Cooney attorneys among Michigan "Super Lawyers" 2010, 2011
- Plunkett Cooney elects four to firms Board of Directors

Mallinckrodt

Publications

- Federal Appellate Court Rules Explicit Allegations Required to Trigger Duty to Defend Under Standard CGL Policies
- Indiana Supreme Court Confirms Rebuttable Presumption of Prejudice to Insurer Arises From Defense of “Late Notice,” Denial of Coverage on Other Bases Does Not Rebut Presumption
- Indiana Supreme Court Precludes Recovery of Pre-Tender Defense Costs, Clarifies Insurer’s Duty to Defend
- Ohio Appellate Court Holds Insurer Entitled to Contribution From Other Insurers Under ‘All Sums’ Jurisdiction, Despite Insured’s Late Notice
- Asbestos Coverage Held Exhausted After Federal Court Applies De Facto Merger Doctrine

- Indiana Supreme Court holds assignment of insurance policy rights invalid due to 'consent to assignment' clause in policy
- Minnesota Supreme Court Issues Decision On Pro Rata Allocation Of Indemnity Costs
- Texas Supreme Court Holds Mold Exclusion Applies Even Though Damage Was Caused by Covered Peril
- Indiana Court Rules No Duty for Insurer to Reimburse Pre-Tender Defense Costs

News

- Plunkett Cooney Elects Board Members, Names New Board Officers
- Plunkett Cooney attorneys among Michigan 'Super Lawyers' 2011