

Stephen A. Klein
Partner

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Stephen A. Klein litigates complex cases in the areas of government contract disputes, insurance coverage litigation, toxic tort and pharmaceutical products defense, environmental litigation, and also practices in the area of regulatory counseling. For more than a decade, he has represented major government and commercial contractors in contract disputes, bid protests, requests for equitable adjustment, and claims. He recently conducted a 5-week trial in Arkansas state court in Phase I of a bifurcated complex construction and engineering contract dispute involving a near billion-dollar ammonia plant expansion, and he expects to conduct an 8-week Phase II trial next year over hundreds of millions of dollars of cross-claims between the project owner and the Firm's client. He headed up the Firm's representation of a major debris removal contractor that had a multitude of claims and bid protests involving work for the Army Corps of Engineers arising out of the Hurricane Katrina cleanup and other disaster responses. Mr. Klein successfully first-chaired a three-day evidentiary trial before the Armed Services Board of Contract Appeals in which he won an eight-figure award for his client, and he has routinely appeared before administrative boards and the Court of Federal Claims. He also served on the trial team during a three-week trial involving delay claims by a bridge contractor against the State of Alabama.

Mr. Klein looks for creative solutions to his clients' problems and is not afraid to take an unorthodox approach where it serves his clients' interests. In one bid protest, for instance, he successfully challenged his clients' award of several contracts under a single solicitation on the ground that his client unfairly was denied additional contract awards, thereby requiring the agency to recompile the entire set of interrelated contracts. He prevailed on this argument before the Court of Federal Claims, and his client ultimately received additional and a more desirable mix of contract awards.

Mr. Klein has effectively employed the government contractor defense to protect contractor clients from specious claims made by third parties and has written on the subject. He brings a creative and critical analysis to all of his representations.

On behalf of diverse corporate policyholders, Mr. Klein has successfully pursued coverage for mass-product liability exposures (involving claims by individuals, putative classes, and the United States and Canadian governments), environmental liability, and asbestos liability. The matters which he undertakes tend to be complex and multi-faceted; for example, he represented a major asbestos defendant with respect to its insurance assets throughout a multi-year bankruptcy, successfully navigating through and around competing claims to the insurance by a number of unrelated corporate indemnitors and indemnitees as well as by the asbestos claimants. Mr. Klein frequently writes in the insurance field and has authored a number of articles and treatises to assist policyholders in

Litigation

Complex Litigation
Federal Claims
Government Contracts
Insurance
Pharmaceutical Products
Toxic Torts & Products Liability

Education

University of Pennsylvania (B.A.,
1987, *magna cum laude*)
University of Michigan School of
Law
(J.D., 1990, *cum laude*)

Admissions

District of Columbia and New York
United States Court of Appeals for
the Eleventh Circuit
United States District Court for the
District of Columbia
United States Court of Federal
Claims

maximizing their insurance recoveries. He has also helped clients facing Superfund liability maximize their insurance recoveries by navigating around pollution exclusion and other issues under their CGL policies, and pursuing claims under specialty Pollution Liability and Cost Cap remediation policies.

In the pharmaceutical and toxic tort areas, Mr. Klein has worked on major post-*Daubert* federal and state court cases, and has extensive experience in presenting and defending against complex scientific proofs. He has led the Firm's representation as national counsel of a major pharmaceutical defendant with regard to mass litigation involving his client's product in consolidated tort proceedings across the country, including a federal multidistrict litigation. He has defended industrial companies and manufacturers against cancer and other personal injury claims arising from alleged exposure to process chemicals and industrial wastes. He also regularly advises pharmaceutical and industrial clients on regulatory matters in multiple areas, including labeling, regulatory reporting, pharmacovigilance, product recalls (including with regard to insurance coverage for same), and the preparation and submission of regulatory filings such as supplemental New Drug Applications and the like.

Mr. Klein's practice also includes defending clients against CERCLA, RCRA, natural resource damage, and state environmental and public nuisance claims arising from industrial operations and waste disposal. For example, he has defended a major chemical and refinery client in a 15-year litigation in state and federal court involving claims by state environmental agencies and contribution claims by co-PRPs. He assisted in the defense of a major industrial client facing billion-dollar NRD liability from decades of PCB discharges into a major waterway. His practice has also included work in general corporate litigation, regulatory law, and bankruptcy.

Mr. Klein was a member of the *Michigan Law Review*.

Publications

Supreme Court to Examine Common Legal Strategy Drug Makers Use to Sidestep Patient Lawsuits

The Supreme Court's Chance to Re-Open a Preemption Door the Third Circuit Tried to Close Forever

Taking the "Product" Out of Product Liability: Litigation Risks and Business Implications of Innovator and Co-Promoter Liability

"Continental Insurance: Insureds Strike Gold In California," written by Firm Partner, Stephen A. Klein, in *The Metropolitan Corporate Counsel*.

Kapps v. Biosense Webster: Who Is Liable When a Reprocessed Medical Device Causes Injury?

A Contractor's Derivative Immunity from Liability: The Government Contractor Defense

Use and Misuse of Insurance Experts, Surviving the Inadmissibility Challenge

Seventh Circuit Gives Expansive Construction to 'Benefits Due' Exclusion

Insurance Recovery of Pre-Notice Defense Costs