



Francis X. Manning

Partner

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Having tried more than 30 cases to verdict or award, Francis Manning has handled commercial disputes and enforcement actions in state and federal courts throughout the Mid-Atlantic region and before the American Arbitration Association.

Fran advocates on behalf of managed healthcare companies, health plans, insurers, financial services companies, and manufacturers in a wide array of matters, including ones involving the Employee Retirement Income Security Act (ERISA), Medicare, Medicaid, products liability, lending and investments, employment discrimination, and restrictive covenant agreements. He regularly handles complex litigation involving high-stakes, multimillion-dollar claims.

Featured Representative Matters

- On summary judgment, secured the dismissal of an ERISA claim for health insurance benefits for a condition deemed experimental under the health plan.
- In a case a Pennsylvania federal court described as “one of first impression,” prevailed on the court not to exercise personal jurisdiction over a health insurer even though the insurer had a certificate of authority from the Commonwealth’s Insurance Department.
- Convinced a New Jersey federal court it had jurisdiction under the federal officer removal statute in a breach of contract case filed by a diagnostic lab seeking payment for hundreds of claims.
- On appeal, received an order and opinion from the Superior Court of New Jersey, Appellate Division, affirming summary judgment on all claims, including defamation, filed by a behavioral healthcare provider against managed care companies.
- On appeal, secured an order and opinion from the U.S. Court of Appeals for the Third Circuit affirming summary judgment for a pharmacy benefit manager on all claims filed by wholesale pharmaceutical distributors seeking damages for alleged constitutional and common law violations.
- Secured injunctive relief in New Jersey state court for a national healthcare insurer against a New Jersey hospital, curtailing the hospital’s efforts to collect in excess of \$200 million in allegedly past due bills directly from hundreds of patients.
- Led the defeat of an effort by commercial borrowers to have a bank’s \$13 million claim dismissed for allegedly violating the New Jersey Banking Act by convincing the trial and appellate courts that the interstate aspects of the loan transactions fit within the act’s exemptions that permit foreign banks to secure loans with property

Services

- Litigation
- Employment
- Healthcare
- Insurance & Reinsurance
- Products Liability & Mass Tort Defense
- Trial Practice

Education

- The George Washington University Law School (J.D., *cum laude*)
- Dartmouth College (B.A.)

Admissions

- New Jersey
- Pennsylvania
- New York
- 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 Pennsylvania

- located in New Jersey and then use New Jersey courts to enforce those obligations.
- Secured the dismissal of all claims by a national pharmacy-benefit company against a former sales executive for allegedly violating a non-competition and confidentiality agreement after the executive joined a competitor.
- Secured injunctions and eventual judgments for a secured lender in New Jersey and Maine federal courts against borrowers who had misrepresented the quality and source of collateral for millions of dollars in loans.
- Secured verdict and judgment for a bank on claims against a borrower and guarantor for entire amount of loan plus interest, costs and counsel fees.
- At the trial court and appellate levels, defeated an effort by a former employee of an asbestos manufacturer to maintain, under a duty-to-warn theory, a direct suit against the manufacturer's workers' compensation insurer that had performed industrial hygiene studies at the plant, thereby foreclosing dozens of similar lawsuits.
- Convinced the bankruptcy court handling the Enron matter to reject the claim by a former Enron executive against a successor corporation to an Enron affiliate for monies allegedly owed under an employment contract with the affiliate.
- After trial, secured both declaratory judgment and restitution for the purchaser of an HVAC company enforcing restrictive covenant against the seller and his new company.
- Defended a national retailer in a jury trial against a subcontractor seeking to hold it liable, as the owner of the construction project, for payment under a state Prompt Pay Act; before closing arguments, the case settled with the co-defendant general contractor paying the majority.
- Defended, as co-trial counsel, a medical device manufacturer from products liability claims regarding a broken stent; the case settled favorably after the plaintiff presented his case.
- Defended, as co-trial counsel, a manufacturer of liquid oxygen system against products liability claims where the plaintiff suffered significant burns from use of the product; the case settled after opening arguments with the client contributing a nominal amount.

- U.S. District Court for the Eastern District of New York
- U.S. District Court for the Southern District of New York
- New Jersey Supreme Court
- Pennsylvania Supreme Court
- New York State Court of Appeals

Memberships

- Former Member, Board of Directors and Executive Committee, Chamber of Commerce Southern New Jersey
- Former Member, Virtua Foundation Board of Trustees

Recognitions

- ROI Influencers: Law 2022, *ROI-NJ* (2022)
- Leading Business Attorneys: Financial Services, *South Jersey Biz* (2022)

Featured Speaking Engagements

- Moderator, "Innovate South Jersey: Manufacturing," Chamber of Commerce of Southern New Jersey
- Moderator, "Make New Jersey Competitive: Trends in the Food and Beverage Industries in New Jersey," Chamber of Commerce of Southern New Jersey
- Moderator, "Make New Jersey Competitive: The Future of Healthcare," Chamber of Commerce of Southern New Jersey Healthcare Event
- Moderator, "Make New Jersey Competitive: The Future of the ACA & Healthcare," Chamber of Commerce of Southern New Jersey Healthcare Conference

- Presenter, “Managing the Challenging Employee: The Tales of the Office Bully, Paid Time Off Abuser, Smoking Man and Others,” Chamber of Commerce of Southern New Jersey Government Action Series
- Moderator, “Public Policy Update Series: Camden’s Comeback,” Chamber of Commerce of Southern New Jersey
- Moderator, “The Affordable Care Act: It’s Here – Now What?”
- Presenter, “Economic Development in South Jersey,” Chamber of Commerce of Southern New Jersey
- Presenter, “Getting There: Transportation in South Jersey,” Chamber of Commerce of Southern New Jersey

Experience

Fidelity National Insurance Company Wins Appeal in the Third Circuit

The U.S. Court of Appeals for the Third Circuit affirmed summary judgment in favor of Stradley Ronon client Fidelity National Indemnity Insurance Company in this case involving a flood insurance claim. The lawsuit was filed after the plaintiff collected \$90,000 on his flood insurance policy from Fidelity National Insurance following Hurricane Sandy. Months later, the plaintiff claimed \$230,000 in additional losses. Fidelity denied coverage for the additional claim and responded to the plaintiff with a “rejection of proof of loss” letter. The plaintiff filed suit for the additional amount months later, but voluntarily dismissed the claim just over a year after Fidelity sent the rejection letter. The plaintiff refiled his complaint two years after Fidelity’s rejection letter.

In their summary judgment motion, Stradley Ronon’s litigation team successfully argued that Fidelity’s rejection letter constituted a written denial of the claim, thereby barring the plaintiff’s suit under the Standard Flood Insurance Policy’s one-year statute of limitations. The plaintiff appealed to the Third Circuit, arguing that the clear language in the rejection letter was not a denial and did not trigger the statute of limitations.

At oral argument, Stradley Ronon reasoned that, by failing to file an amended proof of loss or exercise any of his additional options under the contract, the plaintiff’s own conduct made it clear that he considered the rejection letter to be a denial of the claim. The Third Circuit judge agreed that the suit was barred under the statute of limitations, concluding that a written rejection of a proof of loss constitutes a denial if the policyholder treats it as such by filing suit.

The Standard Fire Insurance Company Extinguishes Appeal in 3rd Circuit

Stradley secured the dismissal of an appeal by Standard Fire’s co-defendant, Chernoff Diamond & Co. LLC, of a summary judgment entered in Standard Fire’s favor by the United States District Court for the District of New Jersey. The Third Circuit Court of Appeals agreed with Stradley’s argument that Chernoff did not have standing to assert the rights of Plaintiff simply because Chernoff no longer had Standard Fire to share in any potential exposure, and issued a brief opinion quoting the argument in Stradley’s brief and dismissing Chernoff’s appeal for lack of standing. This win is a positive development for “Write Your Own” flood insurance carriers in National Flood Insurance Program jurisprudence because the Third Circuit’s opinion bolsters the important concept that a WYO carrier’s liability to a policyholder is separate and distinct from that of an insurance agent.

“United” For Decades of Success

For more than two decades Stradley Ronon has served as UnitedHealth’s mid-Atlantic regional counsel, effectively and efficiently handling more than 400 cases and claims for UnitedHealth and its subsidiaries and affiliates throughout the mid-Atlantic region and in other states (e.g., Ohio, New York, Michigan and Florida). The majority of these cases are healthcare/ERISA litigation, and involve, ERISA benefit claims; non-ERISA claims; Medicare/Medicaid; provider disputes; prompt pay claims; stop loss claims; termination of contractual arrangements; coordination of benefits and care; third-party administration of benefits, life and disability benefit disputes; and counterclaims for fraud or overpayment. These cases range from single plaintiff claims to large, complex class actions.