



## **HARVEY KRUSE, P.C.**

**1050 Wilshire Drive**

**Troy, Michigan 48084-1526**

**(248) 649-7800 (Office)**

**(248) 649-2316 (Office Fax)**

**E-Mail: [jmathers@harveykruse.com](mailto:jmathers@harveykruse.com)**

### **JASON R. MATHERS**

#### **AREAS OF PRACTICE:**

Civil Litigation  
Construction Law  
Insurance Coverage  
No Fault  
Third-Party Auto  
Premises Liability  
Product Liability  
Bankruptcy  
Employment Litigation  
Class/Collective Actions  
Appellate Practice

#### **EDUCATION:**

Wayne State University Law School (J.D. *cum laude*, 2003)  
Wayne State University Law School Law Review  
Senior Articles Editor 2002-2003  
Editor 2001-2002  
Wayne State University (B.A., 1999)

#### **BAR ADMISSIONS:**

State Bar of Michigan 2003  
U.S. District Court for the Eastern District of Michigan 2003  
U.S. Bankruptcy Court for the Eastern District of Michigan 2007  
U.S. Bankruptcy Court for the Western District of Michigan 2007  
U.S. District Court for the Western District of Michigan 2009  
Sixth Circuit Court of Appeals 2013

#### **EMPLOYMENT:**

Shareholder at Harvey Kruse, P.C., 2011-Present  
Associate Attorney at Harvey Kruse, P.C., 2003-2011

#### **EXPERIENCE:**

Jason was made a shareholder at Harvey Kruse, P.C. in 2011.  
Jason aggressively represents his clients in the various courts of the State of Michigan and out-of-state courts as well.

Jason has achieved a number of victories for his clients on motions for summary disposition and summary judgment and other motion practice. He has also been involved in a number of trials, again both in the state and federal courts. Most recently, Jason was lead defense counsel for a trial in the Wayne County Circuit Court for a wrongful death case that lasted three weeks resulting in a “no cause.”

Jason is committed to seeing his cases through to their completion. He approaches each case with the mindset that his work on that case does not end until the matter is resolved. In terms of any appeal, he has written multiple briefs on appeal to all of the different appellate courts of this state and has appeared for oral argument at the Michigan Court of Appeals and Sixth Circuit Court of Appeals.

Additionally, a significant and still growing part of Jason’s practice involves employment litigation, and specifically representing individuals in their claims for equal pay, and/or unpaid overtime wages against their past or present employers. Or in other instances, Jason’s work on these FLSA cases is in defense of the defendant company and its pay practices and defending against such FLSA claims. These FLSA lawsuits often involve complex, large scale, class action and collective action possibilities. Again, as indicated above, Jason’s practice in this area is not just limited to the State of Michigan. Rather, through association with local counsel, Harvey Kruse, P.C. has been, and is, able to provide representation in a number of out-of-state jurisdictions.

Jason’s work and experience in FLSA cases has expanded his practice further to include the defense of various other types of class actions and complex litigation. For example, he has worked defending against lawsuits brought as class actions for alleged violations of the Telephone Consumer Protection Act (“TCPA”), 47 U.S.C. § 227, with class sizes purportedly in the several thousands of putative class members.

Jason was recently named as a “Rising Star” in 2014 Michigan Super Lawyers, and has authored multiple articles in Michigan Lawyers Weekly.

MEMBER:

State Bar of Michigan

REPRESENTATIVE  
CLIENTS:

Maxum Specialty Insurance Group  
Meemic Insurance Company  
Michael Enterprises, Inc.  
National Casualty Insurance Company  
National General Insurance Company  
Nationwide Insurance Company  
Robertson Fellows Creek, LLC  
Scottsdale Insurance Company  
Strawberry Fields, Inc.  
Titan Insurance Company

REPRESENTATIVE  
TRIAL & APPELLATE  
RESULTS:

In *Tompkins v. Crown Corr, Inc., et al*, the plaintiff alleged to have slipped and fallen on standing water at the then newly constructed McNamara Terminal at Detroit Metropolitan Airport on December 29, 2005. Harvey Kruse, P.C. represented the roofing subcontractor for the project, Crown Corr, Inc., as one of several defendants in the case. Harvey Kruse, P.C. obtained summary disposition first at the state court and later summary judgment in the federal court. Most prominently, Harvey Kruse, P.C. successfully argued that the lawsuit which was brought more than six years after the terminal had gone into use was barred by the statute of repose and that subsequent work efforts by Crown Corr, Inc., to correct a leaking roof was a continuation of the original work on the project. Those arguments, among the others raised by HKPC, were continued on appeal where, again, the Sixth Circuit Affirmed.

In *Allied Property v. Menser, et al.*, Harvey Kruse, P.C. was retained to initiate declaratory action proceedings seeking a determination of no coverage relative to ongoing litigation involving a minor and her injuries sustained in a motor vehicle / pedestrian accident. The particular policy term involved was the exclusion in the policy for an insured that does not possess a reasonable expectation that he or she is entitled to use the vehicle involved. The insured in that case had not held a valid driver's license in Michigan for the better part of two decades, was listed in the policy materials as a "household member not driving," did not add obtain coverage for the subject vehicle (which was owned by his brother who lived elsewhere) and also did not have his brother's permission to drive the vehicle which was being stored at the insured's home. The Court agreed and entered summary disposition for our Client.

A claim of appeal was filed but later withdrawn by the uninsured motorist carrier defendant.

In *Hamdi v. National Casualty*, the plaintiff driver was injured when his semi-truck rolled over on an Arizona highway. Plaintiff was airlifted from scene. The plaintiff brought suit for Michigan PIP benefits against both Citizens Insurance and National Casualty Insurance. Harvey Kruse, P.C. argued to the Wayne County Circuit Court that the policy written by National Casualty did not cover the loss as the tractor was not added until after the date of loss. Judge Susan Borman agreed and granted summary disposition for National Casualty, finding Citizens who insured the tractor at the time of the loss was the highest priority insurer and responsible for payment of Michigan PIP benefits.

Subsequently, Citizens filed a second lawsuit, only this time in Oakland County, arguing many of these same priority issues but with some additional claims of fraud and a theory of negligent conduct on the part of the various insurance entities and the insured, which according to Citizens was the reason it was held the responsible insurer on the loss. National Casualty moved for summary disposition on the basis of res judicata and collateral estoppel and for an award of sanctions pursuant to MCR 2.114 for the frivolous filing against National Casualty. Judge James Alexander granted the motion and awarded National Casualty nearly all of its fees and costs in the second lawsuit against Citizens and its attorneys.

In *Estate of Robert Whitta v. Wayne Industries*, the Estate of the deceased alleged that Mr. Whitta, a truck driver, had been crushed while at the defendant's steel warehouse facility. In terms of causation, the plaintiff's case was premised on an autopsy report stating that the cause of death was a crush injury and additional expert opinions concerning the warehouse operations and the extent of injuries and injury patterns. The case was defended with worker testimony, effective cross examination and competing expert medical opinion that the autopsy was flawed both in its methodology and in the conclusions drawn from the autopsy and further that what was observed in terms of fractured ribs and other internal organ injuries could have been caused by the hundreds of CPR chest compressions performed by the workers, EMS and hospital staff in an effort to save Mr. Whitta's life and or his free fall from standing height onto the bed of the truck's trailer. The trial concluded after three weeks resulting in a jury verdict of "No Cause" of action. No appeal was taken.

In three recent **FLSA cases**, which included lawsuits brought here in Michigan and out-of-state, Harvey Kruse, P.C. represented different groups of plaintiff workers in regards to their claims of unpaid overtime through misclassification or unpaid time, and in one case retaliatory termination. One of the cases, brought on behalf of a group of 500 workers, was certified by the Eastern District of Michigan both as a class action and as a collective action. All three of the cases resulted in most favorable settlements and a significant recovery of unpaid back wages for our clients.

In *Salt v Bennigan's*, we successfully defended a dramshop action against the Client relative to a head-on collision resulting in death and serious injuries. After setting aside the default entered against our Client, we moved for summary disposition. We argued that the comprehensive discovery did not support the elements of an illegal sale, or consumption. The trial court denied the motion finding an issue of fact existed as to these elements. However, following a series of briefs to the Michigan Court of Appeal and to the Michigan Supreme Court, our request for interlocutory appeal was granted and the decision ultimately reversed.

In *Yak v UPS*, the three named plaintiffs, all former UPS workers, filed suit in the Eastern District of Michigan in response to having their workers compensation benefits cutoff. The plaintiffs alleged that their former employer and its workers compensation carrier, our client, had conspired via the mails to deny them benefits in violation of the RICO laws. We successfully defended the client in the trial court, arguing reverse-preemption; "law of the circuit"; failure to show detrimental reliance; and failure to plead with particularity. On appeal, the Sixth Circuit affirmed that decision, finding that the plaintiffs failed to plead detrimental reliance. That decision became final when the U.S. Supreme Court denied the Plaintiffs petition for writ of certiorari.