



HARVEY KRUSE, P.C.

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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:

Board of Directors at Harvey Kruse, P.C., 2021 - Present
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 and became a member of the Firm's Board of Directors in 2021. 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. Of particular note, 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.

Jason’s practice areas include aggressively defending his clients in all types of civil litigation, product liability, construction accidents, insurance coverage, no fault, third-party auto, and premises liability cases, ranging from the routine matter to highly complex cases and at all levels of exposure.

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

MEMBER:

State Bar of Michigan
Michigan Defense Trial Counsel

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
AmTrust Insurance Company
Amerisure Insurance Company

REPRESENTATIVE
TRIAL & APPELLATE
RESULTS:

White v. Mohawk Carpet Corporation, Oakland County Circuit Court (2005) – This was a products liability case. We successfully defended the case and were awarded summary disposition for our client, arguing that the retailer and ultimate user of the subject product were sophisticated users of the product.

Carbott v. Polyvision Corporation, Wayne County Circuit Court (2005) - This was a products liability case. We successfully defended the case on the basis that our client did not have any successor liability for any of the alleged products of the company it had purchased years earlier pursuant to an asset only purchase agreement. And further that the plaintiff’s claims against our client were premised upon impermissible speculation and conjecture about the product and the source of the product. The trial court granted summary disposition on all claims against our client.

Federal Insurance Company v. Midwest Refrigeration Inc., et al., Wayne County Circuit Court (2003), Michigan Court of Appeals

(2007) – This was a products liability case involving a building explosion after an ammonia cooling system failed. Our client was one of a number of entities involved in the design, supply and install of the system. We successfully defended the case arguing the economic loss doctrine applied to impose a four-year statute of limitations under the UCC, which in-turn time barred the plaintiff's claims against our client. The Michigan Court of Appeals affirmed summary disposition for our client.

In *Tompkins v. Crown Corr, Inc., et al*, United States District Court for the Eastern District of Michigan Southern Division (2010), Sixth Circuit Court of Appeals (2012) - 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. We represented the roofing subcontractor for the project, Crown Corr, Inc., as one of several defendants in the case. We obtained summary disposition first at the state court and later summary judgment in the federal court. Most prominently, we 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, were continued on appeal where, again, the Sixth Circuit affirmed.

In *Allied Property v. Menser, et al.*, Wayne County Circuit Court (2013) - we were 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*, Wayne County Circuit Court (2012), Oakland County Circuit Court (2012), Michigan Court of Appeals (2013) - 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. We 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*, Wayne County Circuit Court (2012) - 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, we 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*, Ingham County Circuit Court (2005), Michigan Supreme Court (2007) - 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*, United States District Court for the Eastern District of Michigan Southern Division (2003), Sixth Circuit Court of Appeals (2005) - 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.

David Espinoza v. DPG-Homes of Michigan, Wayne County Circuit Court (2018) - This was a construction accident case involving claims of liability against the insured general contractor. Defendant filed notices of nonparty fault, filed a third-party complaint for indemnification under the common law and conducted targeted discovery to establish, *inter alia*, the number of workers in the area at the time of the plaintiff's fall from a second floor into the basement where the unfinished stairway broke free under plaintiff's

weight. Plaintiff suffered a fractured foot and hand, which foot injury required two surgeries. We filed a motion for summary disposition arguing that as the general contractor the defendant was not responsible for the negligent acts of its subcontractors and that this was not any “common work area” where the fall occurred. Plaintiff eventually agreed to entry of a voluntary dismissal of all claims against the Amerisure insured. The workers compensation lien around that time was in excess of \$60,000 (with additional benefits remaining in controversy).

Allstate (James Seese) v. DVM Utilities, Inc, et al, pre-suit (2019) – This case involved claims for property damage following a fire loss. More specifically, the claimant’s home burned down when a fire started while charging the family’s Apple device. We expeditiously retained an expert for the Amerisure insured. There were different theories being advanced concerning the cause and origin of the fire, which included utility digging work recently done at the property by the Amerisure insured. The case was resolved quickly, however, following an accident site inspection, and inspection of Apple device, charger, etc., and the follow-up discussions held with opposing counsel. At that time, Allstate agreed to a voluntary dismissal of all claims (or that it would not pursue any claim) against the Amerisure insured. The estimated damages for the claim were in excess of \$200,000.

Livonia Care Management (Pamela Capers) v Amerisure, 19th District Court (2018) - This was a provider lawsuit for PIP benefits. In this case, defendant filed a series of motions for summary disposition, which collectively resulted in the case being dismissed for fraud and the provider not having a valid assignment of rights. More specifically, during the hearing on the defendant’s first MSD, the former trial Judge assigned to the case (now retired), suggested that Ms. Capers’ signature (which was clearly different from her other signatures) may have been an alternative signature that she used from time to time. Following that first hearing, we moved to depose Ms. Capers’ specific to this signature and she in fact testified that it was not hers. Defendant promptly filed its second MSD, which was granted by the newly assigned Judge and the case was dismissed.

Truesdell v. Amerisure Mutual Ins. Co., et al., Wayne County Circuit Court (2019) – This case was defended in the circuit court and also a separate action was filed on behalf of Amerisure in the

Workers Compensation Bureau after an argument for employee benefits under the WDCA was first identified. The competing argument on that employment issue was that the defendant driver was an independent contractor who was not entitled to workers compensation benefits. Through the proceedings and discovery we were able to negotiate down the PIP benefits paid through the normal course of defense and ultimately recover \$39,000 in reimbursement benefits from the workers compensation carrier. We also filed a motion for summary disposition on the UM/UIM claim, arguing that plaintiff was more than 50% responsible for the motor vehicle accident. The trial court granted this motion for summary disposition.

Nicholson v City Steel, et al, Wayne County Circuit Court (2019) - This was a third-party auto negligence case involving a bus. Plaintiff alleged injuries to her neck, back, knees and shoulders. The video from the bus showed plaintiff thrown about after the side-impact. The video further established the defendant's negligence in causing the motor vehicle accident. We filed a motion for summary disposition arguing no serious impairment based on the plaintiff's preexisting medical, and the plaintiff's social security disability and physical limitations for years before the accident. Plaintiff responded to the motion with a doctor's Affidavit purporting to establish a serious neurological injury. We successfully defeated this effort arguing that the conclusory statements in the doctor's affidavit did not create an issue of fact. The Court granted defendant's motion for summary disposition.

Allwood v. Milford Insurance Company, Washtenaw County Circuit Court (2019) – This was a PIP case involving catastrophic claims involving the minor plaintiff. We defended the case arguing that under the case law the subject motor vehicle had been sold at a date prior to the accident, removing the client from the line of priority. The trial court granted our motion for summary disposition.

Corbin v. Milford Insurance Company, Washtenaw County Circuit Court (2019)– This was a PIP case involving catastrophic claims involving the minor plaintiff. We defended the case arguing that under the case law the subject motor vehicle had been sold at a date prior to the accident, removing the client from the line of priority. The trial court granted our motion for summary disposition.

Brooks v. Jeffersonian Houze, Wayne County Circuit Court (2019) – This was a case involving a tenant's claims against the apartment building he had lived in for more than two decades for violation of Elliot Larsen Civil Rights Act, Persons with Disabilities Civil Rights

Act, Renter's Rights laws and other statutory claims. We filed a motion for summary disposition on behalf of our client, the former owner of the building, arguing the actions of the apartment complex during its management were in compliance with the law and that other claims were barred by various statutes of limitations. The case resolved shortly after for a fraction of the \$185,000 damages alleged through a global settlement.

Doelle v. Olde World Canterbury, Michigan Court of Appeals (2018) – This was a personal injury case where the plaintiff sustained serious injury while a passenger on the Thomas the Train ride during an event at the premises. We successfully defended this case on appeal arguing that the premises owner was not responsible for the alleged negligence of its subcontractors and that the alleged tortfeasor was not an agent of the premises owner. The Michigan Court of Appeals affirmed summary disposition.

Smith v. Starboard-Great Lakes Michigan Court of Appeals (2018) – This was a slip and fall case that we successfully defended on appeal arguing in the alternative that that the condition was open and obvious based on the indicia of snow and ice in the surrounding areas of the parking lot and that the premises owner had no obligation to inspect every inch of its premises and that the weather records and expert meteorologist's affidavit offered by the plaintiff did not establish notice of any ice hazard.

Multiple wins on summary disposition for premises liability cases involving snow and ice and other trip hazards.

Dozens of highly favorable settlements and other positive results for clients reached in all types of personal injury and property damage cases, including matters involving complex principal/agency relationships.