

LEGAL & LITIGATION DEPARTMENTS OF THE YEAR



From Left to Right: Matthew Werbel, John Methfessel, Jr. & Joel Werbel

METHFESSEL
& WERBEL,
P.C.

METHFESSEL & WERBEL SEES A STRING OF SUCCESSES IN 2015

BY MICHAEL BOOTH

A total focus on insurance defense is what John Methfessel, the managing partner at Edison's Methfessel & Werbel, attributes to the firm being recognized for insurance litigation in the Law Journal's Litigation Departments of the Year.

“It’s a combination of our singular focus on insurance law and the value we deliver to our clients,” Methfessel said. “We have some extremely talented people who are focused on the nuances of insurance law.”

The 52-lawyer firm counts at least 70 carriers as clients, and also represents self-insured entities as well, the firm said.

Every attorney in the firm focuses on general civil litigation, although a number specialize in certain fields, the firm noted, adding that the lawyers have been involved as counsel in at least 150 published appellate decisions in both state and federal courts.

The firm was established in 1972 solely to serve the insurance industry but has expanded in recent years to represent large self-insured entities, the firm said.

“While historically the firm has concentrated in the areas of general litigation and insurance defense, in more recent years the firm has made an impact in the areas of employment, civil rights and special education law, and now has a 14-lawyer team dedicated entirely to civil rights and employment litigation,” the firm said.

Lawyers from Methfessel & Werbel have been involved in a number of ground-breaking state Supreme Court rulings over the years.

Lawyers from the firm were involved in the arguments in the court’s 1995 ruling in *Brill v. Guardian Life Insurance Co.*, which established the standard still used for the granting of summary judgment.

Methfessel & Werbel lawyers also successfully argued before the court in *Pickett v. Lloyds of London* (1993) that extra-contractual damages should not be available in a dispute over first-party coverage where the insurer’s coverage is “fairly debatable,” the firm said. That ruling was affirmed by the court in 2015 in *Badiali v. New Jersey Manufacturers Insurance Co.*

The firm was involved in a number of high-profile rulings and cases in 2015.

One of the firm’s most recent successes is the state Supreme Court’s April ruling in *Bardis v. Stinson*. The court agreed with the firm’s argument and the dissent in the Appellate Division that the supplemental collapse coverage provision contained in a dwelling policy issued by an insurance carrier was unambiguous and did afford coverage for collapses caused by “hidden” construction defects.

In *Ashrit Realty, LLC and Bhavika Realty, LLC v. Tower National Insurance Co.*, the plaintiffs owned a gasoline station and convenience store. The property sustained moderate damage during a storm on August 14, 2011, and more extensive damage during Hurricane Irene two weeks later. After the hurricane, a large hole formed as the result of the collapse of a pipe which ran underneath the property. Once the pipe collapsed, leaking water caused substantial soil erosion, which led to the collapse of the rear portion of the building. Plaintiffs sought coverage from defendant Tower National, who insured the property.

The carrier denied coverage based on an exclusion in the policy. The plaintiffs filed a complaint seeking declaratory relief, alleging breach of contract and breach of duty of good faith. The Law Division granted summary judgment to defendant.

The Appellate Division agreed that the trial court properly interpreted the insurance policy by finding that the anti-sequential clause and the exclusionary language for earth movement and water damage did not cover plaintiffs’ loss. Regardless of any other cause of loss plaintiffs alleged, because plaintiffs do not deny that water seeped through the culvert causing soil erosion, they could not overcome summary judgment, the court said. Methfessel & Werbel attorneys Stephen Katzman and Christian Baillie were lead counsel.

On March 10, Eric Harrison of the firm obtained a no-cause verdict in *Palko v. Edison*. In that case, plaintiff Michael Palko, a former Edison Police captain, claimed he was forced to retire after a series of demeaning assignments and meritless disciplinary charges that he claimed were motivated by local politics.

A jury deliberated for about two hours before returning with the verdict.

In November 2015, Fredric Gallin of the firm handled a subrogation case, *Preferred Mutual v. Atlantic City Electric*, arising out of a fire that burned down a church in Vineland—caused by a piece of siding that had come loose and came into contact with high-voltage wires.

Shortly before the fire, Atlantic City Electric and Verizon had been replacing utility poles in the neighborhood, and it was determined the new poles were too close to the building and there had been inadequate oversight of the work being done.

Although there were disputes over the cause of the fire and the value of the building, a compromise was reached resulting in a \$750,000 subrogation settlement.

In July 2015, Edward Thornton of the firm defended a claim in Mercer County against the Hopewell Valley Regional School District in which a former student, now an adult, alleged that he was the victim of sexual abuse by a former teacher.

According to the firm, the plaintiff had demanded \$3 million, seeking emotional and psychological damages, as well as past and future treatment costs. The plaintiff’s ex-wife also filed a claim, alleging that the couple’s divorce was caused, at least in part, by his personality changes brought about through treatment.

The jury found the school district did not violate any tort standard and could not be found to have been a passive abuser.

The jury did find the teacher liable and awarded \$340,000. An appeal is pending, according to the firm. ■