



MUNICIPAL AND GOVERNMENT

GROUP CHAIR



Paul S. Devine



Brian W. McElhenny

Our team regularly defends lawsuits brought against cities, towns, counties, police departments, police officers, school districts and teachers, in state and federal courts. These lawsuits often allege violations of constitutional rights (including false arrest, excessive force, illegal search and seizure, etc.), negligence in hiring, training, supervision and retention, employment discrimination, sexual harassment, and wrongful termination. In addition, the group defends land use and zoning litigation on behalf of governmental entities. We are a leader in the defense of municipalities. Our successes involve the defense of general negligence claims against municipal corporations involving premises and security liability and accidents stemming from the use of cars, trains, buses, trucks, police, fire vehicles and ambulances. We are well versed in handling high profile civil rights cases including Federal 1983 claims of police excessive force, false arrest and malicious prosecution.

AMERICAN WITH DISABILITIES ACT COMPLIANCE AND DISPUTES

Municipal entities often misunderstand their legal obligation to make their premises accessible to individuals and employees with disabilities. Many mistakenly believe that they have no obligation to make buildings accessible to individuals with disabilities as they are “grandfathered” an exemption. Our lawyers are experienced in advising clients on all aspects of the ADA. We also represent clients in suits brought against them for ADA non-compliance. Often, “career plaintiffs” look for violations of ADA in order to seek some form of cash settlement. We fight these claims

and win.

APPELLATE ADVOCACY

The appellate outcome of a municipal litigation is equally important to the outcome of a trial or lower court proceeding. Appeals often have precedent setting significance with impact far beyond a single matter. Success at the appellate level requires different skills than those applied at trial. It is important to understand the appellate bench, and the perfection of the record.

Our lawyers' analytical, writing, and oral advocacy skills are honed for success on appeal. Our lawyers have served as judicial law clerks to trial and appellate court judges, providing insight into the working of the priorities and decision-making of the bench.

Our Municipal and Government lawyers work closely with our Appellate Practice Group – teaming together to often parachute into matters handled by separate trial counsel. We are regularly sought in this regard to serve as appellate monitoring counsel during trial. Clients also engage us to write amicus curiae briefs, and to work with other trial counsel to ensure that municipal and government matters are properly postured for appeal.

CONSTITUTIONAL LAW AND CIVIL RIGHTS

Our team has decades of combined experience handling state and federal constitutional claims and matters. We have achieved favorable results in matters involving freedom of speech, defamation, libel and slander, the right to court access, the right to be free from unreasonable searches and seizures, procedural and substantial due process, equal protection, and the right to bear arms. We have defended numerous government agencies, elected officials, police officers, corrections officers, and counties and local governments in civil rights suits in federal and state courts. We have successfully defended free speech claims, allegations of police misconduct, and municipal liability claims. We aggressively litigate a wide range of Second Amendment issues in federal and state courts. In this regard, we are trial and appellate counsel to several national, statewide, and regional organizations devoted to the Second Amendment and shooting sports. We regularly advise and defend business clients on a wide range of issues relating to the sale, transfer, and possession of firearms. We have extensive experience handling the unique challenges presented by the myriad of laws found in state constitutions as well as local ordinances. Our capabilities range from cases involving state-specific human rights laws to the codes impacting project finance, development, and land use.

CONSTRUCTION LIABILITIES

Our vast experience with government and municipal construction losses causes clients to seek our counsel in construction property and liability losses. Our team has decades of experience representing general contractors, prime contractors, sub-contractors, sub-sub-contractors, construction managers, owners, developers, design professional, architects and engineers. Our lawyers assist clients in addressing the legal challenges of engaging in the design, development, mechanic's liens, interference, collapse, financing, performance and management of major construction and government procurement contracts. Our experience enables us to handle the complete spectrum of issues arising before, during and after project completion.

Our Municipal and Government Practice Group lawyers who focus on construction issues work closely with team members in our Construction Practice Group.

E-DISCOVERY

Our Municipal and Government lawyers advise clients in developing pre-litigation policies and procedures. We counsel clients on implementing effective technologies to manage and dispose of data defensibly and consistently with emerging best practices. Our team also advises on

preserving documents and data effectively where there is a duty to preserve. We work with clients to explain defensible disposal before a duty to preserve arises. Once a duty to preserve arises, we work hand-in-glove with clients on legal holds and their scope. Our managing partner, John Jablonski, is nationally recognized in this arena. He is the Editor of Arkfield's Best Practices Guide for Legal Holds, and the former chair of the Defense Research Institute's E-Discovery Committee.

Our commitment to innovation and technology allows us to provide a distinct competitive advantage for our clients. We recognize the potentially crippling costs of discovery, particularly e-discovery, in major litigation and are committed to employing creative, cost-saving solutions that will maximize value to our clients without compromising excellence. While many firms have made a decision to create in-house operations with costly overhead from space, full-time staff, and benefits, we have created key vendor relationships that effectively act as if they are "in-house" but bear their own overhead. This way we effectively manage our client costs. We require efficiency, value, responsiveness, and quality of these vendors.

Our municipal and governmental lawyers addressing e-discovery issues work closely with team members in our Cyber, Technology and Social Media Practice Group.

EMPLOYMENT AND LABOR

As counsel for many governmental entities, we guide them in employment structuring and documentation - with the goal of minimizing claims and litigation. We believe in well-crafted and designed employer/employee relationships that are memorialized in clear and fair employment agreements and other employment-related documents. We also counsel in connection with decisions related to disciplining and terminating employees. When an employee alleges of harassment or discrimination, we guard our clients' interests. When disputes arise, we team with clients on a strategy that resolves the dispute before litigation ensues. However, we recognize that certain cases are especially difficult to resolve and must therefore be aggressively defended. We have a proven record of success in litigation and arbitration.

Our Municipal and Government Practice Group lawyers who focus on employment and labor issues work closely with team members in our Employment and Labor Practice Group.

GOVERNMENT CONTRACTS AND BID PROTESTS

We provide a full range of services in connection with government contracting at the local, state and federal level, and with international agencies. We have litigated matters involving procurement laws and the awards process, and have written extensively on competitive bidding and related subjects. We represent public owners, contractors, subcontractors, engineers, architects, suppliers and sureties in the procurement process, including bidding, bid protests, contractor selection and awards processes used by public agencies.

Our Municipal and Government Practice Group lawyers who focus on contract and bid issues work closely with team members in our Construction Practice Group.

PREMISES LIABILITY

There are many occurrences that create liability concerns related to the government ownership of property. As an owner, a municipality can expect someone to claim that its property is not reasonably safe. Potential claims include a dangerous condition causing injury, or illegal activities, and security issues. Our lawyers have years of experience defending municipal entities from claims arising from their premises.

PUBLIC OFFICERS AND GOVERNMENTAL LIABILITY INSURANCE

Public officials liability insurance is similar to directors and officers liability insurance and to professional liability insurance — however, it applies to public officials who work at various public agencies, authorities, commissions, or who serve on public boards. This insurance is designed to address allegations of wrongful acts committed in the course of work as a public official. Coverage for employment practices liability insurance is often included.

Our lawyers have assisted clients in putting programs together in this space, and have successfully litigated coverage issues arising out of this type of insurance. Disputes may arise between a policyholder or its other general liability insurers over exclusions, which include: bodily injury; damage or destruction of any property; invasion of privacy; false arrest, detention or imprisonment; and dishonest, fraudulent, or criminal acts.

The coverage and exclusions provided in public officials liability insurance policies can vary greatly. Our lawyers work with our clients for early assessment and issuance of appropriate reservations of rights.

Our Municipal and Government Practice Group lawyers who focus on insurance issues work closely with team members in our Insurance Solutions Practice Group.

PUBLIC-PRIVATE PARTNERSHIP PROJECTS

We represent federal, state and local governments, as well as developers, lenders and other private sector firms in P3 projects. We negotiate arrangements and establish properly aligned incentives that are the foundation for successful P3 projects.

Our Municipal and Government Practice Group lawyers who focus on P3 issues work closely with team members in our Construction Practice Group, as well as our Commercial and Corporate Practice Groups.

SCHOOL CLAIMS

The educational system continues to be an area of extensive legal scrutiny. Unfortunately, schools face constant challenges to the services that they provide. We handle claims arising from the time a child boards the school bus until long after the child returns home. The claims we handle range from accidents in the classroom, gym class or field trips. These claims often allege negligent supervision or improper practices. The firm has successfully defended school officials across the state both at the trial level and appellate courts.

TRANSPORTATION RISKS

Municipalities are one of the most significant participants in the transportation industry. Public entities supply the public transportation by bus, light rail, airport, ports, subway, etc. Our lawyers have extensive experience in defending claims arising from buses and rail, and their adjoining premises. Our team also guides our clients through commercial litigation, catastrophic personal injury, insurance coverage disputes, as well as negotiating and drafting of independent contractor agreements.

Our team is available 24-7-365 ready to respond to accident scenes on short notice in order to document and preserve critical evidence, interview witnesses, communicate with law enforcement and direct the investigation on behalf of public entities involved in accidents. Our lawyers have a network of accident investigators and reconstructionist who also can be on the scene quickly. We understand the importance of maintaining relationships with transportation experts who are able to assist with the scene and inspections. These experts are also available to assist us in making critical determinations on downloading and interpreting event data recording

information and other electronic media. Not only do we respond immediately when an accident occurs, our team understands the necessity of an aggressive defense when faced with a large loss or catastrophic claim and will use this expertise throughout the discovery process, alternative dispute resolution, or where appropriate, at trial.

Our Municipal and Government Practice Group lawyers work closely with team members in our Transportation Practice Group.

ZONING AND LAND USE

Decisions by a zoning officer of a town or city board often impact upon private property owners. The impacted party often raises claims of improper treatment, claiming of the taking of property, or preventing the proper use of property. Unfortunately, these matters often end up in court. These cases require an analysis of the particular facts of each matter. The firm has handled numerous cases in this matter with results that protect the rights of all municipal entities. We have made appellate law in this arena and understand the public reputational issues that can arise in this type of claim.