



## C. James Zeszutek

Of Counsel

[james.zeszutek@dinsmore.com](mailto:james.zeszutek@dinsmore.com)

Pittsburgh, PA

Tel: (412) 288-5863

Jim is the former managing partner of the firm's Pittsburgh office. He is involved in the defense of pharmaceutical and medical device products on behalf of the products' manufacturers. He has defended the Bjork-Shiley heart valve, breast implants, artificial hips and knees, endoscopic linear cutters, surgical staplers and tools, stents, fracture fixation devices, non-steroidal anti-inflammatory drugs, and the OrthoEvra patch, among others. Jim is also involved in the defense of chemical and fiber products including products that contain asbestos, talc, benzene and acrylamide. He presently serves as national coordinating counsel for a mineral miner and processor in litigation, which is active in numerous jurisdictions. He has an active NCAA practice in which he represents coaches in hearings before the Committee on Infractions, defending against allegations of NCAA bylaw violations and has been involved in the Committee on Infractions hearings involving numerous universities and colleges.

### Services

- Litigation
- Class Action
- Product Liability
- Tort
- Mass Tort
- Toxic Tort
- Life Sciences Industry

### Education

- Syracuse University (M.P.A., 1976)
- Syracuse University College of Law (J.D., 1975)
- Syracuse University (B.S., 1972)

### Bar Admissions

- Pennsylvania

- West Virginia
- Ohio

## **Court Admissions**

- U.S. District Court for the Eastern District of Pennsylvania
- U.S. District Court for the Western District of Pennsylvania
- U.S. District Court for the Middle District of Pennsylvania
- U.S. District Court for the Southern District of Ohio
- U.S. District Court for the Northern District of Ohio
- U.S. District Court for the Southern District of West Virginia
- U.S. District Court for the Northern District of West Virginia

## **Affiliations/Memberships**

- Allegheny County Bar Association
- Defense Research Institute
- Easter Seals Western Pennsylvania
  - Chairman
  - Board of Directors
- Edgar Allen Founders Society of Easter Seals
- Syracuse University Athletic Development Advisory Board, Board of Directors
- Syracuse University College of Law, Board of Advisors

## **Distinctions**

- *Best Lawyers*®
  - "Lawyer of the Year" in Pittsburgh for Mass Tort Litigation/Class Actions - Defendants (2012)
  - "Lawyer of the Year" in Pittsburgh for Litigation - Banking and Finance (2015, 2017)
  - "Lawyer of the Year" in Pittsburgh for Product Liability Litigation - Defendants (2018)
  - "Lawyer of the Year" in Pittsburgh for Insurance Law (2020)
  - Commercial Litigation, Insurance Law, Banking and Finance, Bankruptcy Litigation, Mass Tort Litigation, Class Actions and Product Liability Litigation
- Peer Review Rated AV in *Martindale-Hubbell*
- Syracuse University Letter Winner of Distinction Award
- Pennsylvania *Super Lawyers*®

## Experience

### **Lead Counsel in Class Action Personal Injury Litigation**

Denise served as lead counsel in a personal injury litigation filed on behalf of 19 coal preparation plant workers alleging personal injuries, including cancer, reproductive toxicity, genotoxicity, neurological, including peripheral neuropathy, and CNS damage.

After nearly one decade of fierce litigation, all claims were dismissed based on Summary Judgment Motions or by the court on other grounds.

### **Lead Counsel in Defense of Medical Monitoring Class Action Suit**

Denise served as lead counsel in defense of a medical monitoring class action lawsuit filed by coal-preparation plant workers alleging exposure to polyacrylamide flocculant.

### **NCAA Investigation**

Currently representing former University of Miami assistant football coach Aubrey Hill and former University of Miami assistant men's basketball coaches Jake Morton and Jorge Fernandez through NCAA investigation into alleged violations of NCAA bylaws and legislation. Investigation centers around alleged violations relating to the improper benefits provided to student-athletes, as well as the recruitment of student-athletes.

### **NCAA Investigation**

Successfully represented former University of Memphis head basketball coach John Calipari through NCAA investigation into allegations of academic fraud. Counseled Calipari through investigation and hearing before the NCAA Committee on Infractions, and he was not charged with any NCAA violations.

### **NCAA Investigation**

Successfully represented former University of Tennessee head football coach Lane Kiffin through investigation by NCAA into claims of failure to monitor and promote an atmosphere of compliance. The NCAA Committee on Infractions eventually concluded that Kiffin did not commit major infractions and would not be penalized.

### **NCAA Investigation**

Represented former University of Connecticut assistant men's basketball coach Andre LaFleur and former director of basketball operations Beau Archibald during NCAA investigation into alleged violations of NCAA bylaws and legislation relating to the recruitment of student-athletes. Following the investigation, the NCAA Committee on Infractions did not issue major sanctions or a postseason ban to the program.

### **NCAA Investigation**

Represented Syracuse University assistant men's basketball coach Mike Hopkins, director of compliance Erlease Wagner, former athletic trainer Tim Neal and former director of compliance Jamie Mullin through NCAA investigation into alleged violations of NCAA bylaws and legislation.

### **NCAA Investigation**

Represented former Ohio State University assistant men's basketball coach Paul Biancardi through NCAA investigation into alleged violations of NCAA bylaws and legislation relating to the recruitment of student-athletes.

## **Adam v. Spotswood**

We defended a husband and wife, homeowners, who had rented their home to the plaintiffs, a husband, wife, and infant child. Approximately 2 months after moving into the home the infant child was diagnosed with autoimmune pancytopenia a relatively rare but known blood disorder. Autoimmune pancytopenia is a depression of the blood cell lines, reds, whites, and neutrophils. At about the same time that the infant child was diagnosed with autoimmune pancytopenia, mold, including stachybotrys mold, was discovered in the home. The plaintiffs claimed that they were forced to abandon the home, destroy all of their personal property, and further that the mold exposure caused the infant child's autoimmune pancytopenia. The theories of recovery asserted against the defendant home owners were of negligence, breach of contract, and breach of the warranty of habitability. At trial plaintiffs proceeded solely on their negligence theory.

During pretrial discovery it became clear that the plaintiffs' expert on the contention that the alleged mold exposure caused the infant's autoimmune pancytopenia was not following generally accepted scientific/medical methodology to reach his causation opinion. On behalf of the home owners, we filed a Frye motion to exclude this expert. After extensive depositions of both the plaintiffs' expert and our expert as well as briefing and arguing the issue, the trial judge excluded the plaintiffs' expert's testimony that mold caused the infant son's autoimmune pancytopenia. At trial, plaintiffs proceeded on their property damage claim and also on the theory that their infant son's asthma was caused by the alleged mold exposure in the home.

Following three days of trial, the jury returned a verdict for less than 10% of the claimed property damage and a defense verdict on the asthma claim.

Plaintiffs filed post trial motions seeking to reverse the trial court's decision to exclude the plaintiffs' expert on autoimmune pancytopenia. The trial judge affirmed his decision. The plaintiffs then took an appeal to the Pennsylvania Superior Court. The Superior Court affirmed the trial court's decision to exclude the plaintiffs' expert's testimony that mold caused autoimmune pancytopenia.

## **Hatfield v. Nalco Company**

Plaintiff brought suit against his employer claiming deliberate intent and against our client, Nalco Company, after falling down a flight of stairs at the coal preparation plant where he worked. Plaintiff claimed that Nalco negligently manufactured polyacrylamide flocculant, which allegedly caused Plaintiff to fall when he stepped on the product which was on the floor of the plant.

Nalco did not believe that it was a proper defendant in the case and therefore filed a Motion for Summary Judgment. Following the filing of the Motion, Plaintiff voluntarily dismissed Nalco from the case and no money was paid to the Plaintiff from this Defendant.

## **Jeran v. Nalco Company**

Plaintiff brought suit for over \$1 million against our client, Nalco Company. Plaintiff was invited to a golf scramble by a Nalco representative. During the course of the golf outing, Plaintiff consumed alcoholic beverages and at the

end of the outing fell down a flight of steps, rendering him a quadriplegic. Plaintiff sued the sponsor of the outing, the country club where the outing was held and the Nalco sales representative.

Following the sale representative's deposition, Nalco filed a Motion for Summary Judgment. Thereafter, Plaintiff settled with Nalco for a nominal amount.