

## MICHAEL C. MONGIELLO

SHAREHOLDER



### AREAS OF PRACTICE

Health Care Liability  
Long-Term Care Liability  
Public Entity & Civil Rights Litigation  
General Liability

### CONTACT INFO

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### ADMISSIONS

Pennsylvania  
2001

U.S. District Court Middle District  
of Pennsylvania  
2001

U.S. Court of Appeals 3rd Circuit  
2002

### EDUCATION

Widener University School of Law  
(J.D., cum laude, 2001)

University of Scranton (B.S.,  
magna cum laude, 1998)

### HONORS & AWARDS

The Best Lawyers in America®,  
Medical Malpractice Law -  
Defendants  
2024-2025

### ASSOCIATIONS & MEMBERSHIPS

Dauphin County Bar Association

Pennsylvania Bar Association

### OVERVIEW

Michael is the supervising attorney of the Health Care Department in the firm's Harrisburg office. Michael focuses his practice on the defense of medical professional liability matters filed against hospitals, long-term care/rehabilitation facilities, medical practices, physicians, dentists, veterinarians and other health care providers. He also has significant experience in the defense of correctional health care claims and medical professional licensure matters. In his career to date, Michael has defended a countless number of such matters, achieving consistently favorable results through dispositive motion practice, alternative dispute resolution and formal hearing or trial. Michael is devoted to zealous representation of his clients and prides himself on preparation, good communication and conducting highly detailed investigations.

Even before graduating from law school, Michael decided to dedicate his career to these areas of practice. Prior to joining Marshall Dennehey in 2009, he practiced at a Harrisburg area law firm for several years, where he gained significant experience defending medical professional liability claims.

Michael graduated *cum laude* from Widener University School of Law in 2001. He was awarded a Certificate of Achievement in Advocacy and served as a student mentor. Michael completed his undergraduate degree at the University of Scranton, where he graduated *magna cum laude* in criminal justice. While at the University of Scranton, he was inducted into Alpha Phi Sigma, the National Criminal Justice Honor Society.

When not practicing law, Michael enjoys music, everything outdoors, motor/water sports, skiing and vegetable gardening. He is also a talented vintner of organic red wines.

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## YEAR JOINED

2009

## CLASSES/SEMINARS TAUGHT

*Malpractice Risks of Health Care Communication Failures*, presented to medical staff of a large health care provider, March 9, 2021

*Social Media Update: Discoverability, Admissibility and Jury Strategy*, Marshall Dennehey Health Care and Health Law Seminar, November 9, 2017

*The Nuts and Bolts of Defending Correctional Healthcare Claims*," Jersey City, New Jersey, April 2014

*Documentation: A Matter of Life/Death, Liability & Livelihood*, Mechanicsburg, PA, August 2013

*Augmentation of Recordkeeping Through Social Media: The New Frontier*, Mechanicsburg, Pennsylvania, August 2013

*Documentation: A Matter of Life/Death, Liability & Livelihood*, Lebanon, Pennsylvania, May 2013

*The Best Defense is a Good Offense: Medical Documentation*, Lebanon, Pennsylvania, May 2012

*Informed Consent: Nursing Concerns*, Lebanon, Pennsylvania, May 2012

*Most Common Claims Arising Out of Correctional Healthcare in Federal and Pennsylvania Courts*, Dallas, Texas, April 2011

## PUBLISHED WORKS

"I'm Sorry. Mitigating Factor or Fodder for Suit?," *Defense Digest*, Vol. 18, No. 1, March 2012

"Can Medical Professional Corporations Be Held Responsible Under *Thompson v. Nason Hospital* for Direct Corporate Negligence?," *Counterpoint*, The Pennsylvania Defense Institute, January 2001

## RESULTS

### Summary judgment for orthopedic surgeon despite plaintiff's claimed application of the discovery rule.

#### Health Care Liability

**February 10, 2023**

We obtained summary judgment on behalf of an orthopedic surgeon based on the statute of limitations despite the plaintiff's claimed application of the discovery rule. After conducting written discovery and deposing the plaintiff to solidify that the medical professional liability action was untimely commenced, we early on filed a motion for summary judgment in an effort to avoid the incurrence of significant additional expense in defending the case through the remainder of the discovery process.

### Defense verdict following a binding arbitration hearing in a medical professional liability action.

#### Health Care Liability

**February 16, 2022**

The plaintiff claimed that our client, an orthopedic surgeon, was negligent (directly or circumstantially under a theory of *res ipsa loquitur*) in causing a right common peroneal nerve injury during a L4-5 laminectomy and posterior spinal fusion. The plaintiff sought to prove that the peroneal nerve injury was the result of improper positioning and/or monitoring of the plaintiff intra-operatively.

### Vigorous pre-suit investigation leads to favorable resolution of medical professional liability case.

#### Health Care Liability

The claims arose from the alleged occurrence of an unrecognized left tibial/medial plantar nerve injury during left ankle deltoid ligament reconstruction. Despite challenging liability issues the defense was able to significantly discredit the plaintiff at her videotaped discovery deposition based on the findings of an extensive pre-suit investigation. After testifying to having no criminal history, the plaintiff was confronted with multiple guilty pleas for writing bad checks.

## **SIGNIFICANT REPRESENTATIVE MATTERS**

Secured summary judgment on behalf of orthopedic surgeon client based on the statute of limitations despite plaintiff's claimed application of the discovery rule. After conducting written discovery and deposing plaintiff to solidify that the medical professional liability action was untimely commenced, Michael early filed a Motion for Summary Judgment in an effort to avoid the incurrence of significant additional expense in defending the case through the remainder of the discovery process. At oral argument, the presiding judge commented that the matter was "extraordinarily briefed" and "even better presented." Michael's success on the timeliness issue, which is almost always reserved for decision by the jury, brought a quick end to the litigation, in which there were significant liability concerns.

Convinced a Commonwealth Department of State Prosecuting Attorney to voluntarily withdraw a Show Cause Order filed against a veterinary pharmacy, by which reciprocal discipline was sought to be imposed against its professional license. The matter arose out of an egregious pharmaceutical compounding error which caused the death of two race horses. Successfully advocated that due to a subsequent change of ownership, staff and processes, reciprocal discipline was unwarranted and unfair.