



# Paul K. Leary, Jr.

## Co-Vice Chair, Business Litigation

### Philadelphia

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Highly regarded as an experienced and distinguished trial attorney, Paul has consistently and aggressively advocated for clients in handling complex litigation matters on behalf of multinational companies. He has secured landmark victories in high stakes cases for his long-time clients in the hospitality, transportation, construction, retail, private equity, and product manufacturing industries.

Paul currently serves as vice chair of the firm's Business Litigation Group and on the firm's board of directors.

In more than 25 years of practice with Cozen O'Connor, Paul has secured numerous defense verdicts in high-exposure product liability, construction, transportation, dietary supplement, complex commercial, and mass tort/class action trials. He has successfully mediated, arbitrated, and tried multiparty complex litigation matters, mass tort cases, and class actions in the toughest state and federal court jurisdictions in the country. In the past two years alone, Paul successfully tried 12 cases in some of the most difficult venues across the United States.

In addition to these successes, Paul is most proud of the longstanding relationships he has developed with his clients and is grateful for their enduring trust and loyalty. Their unwavering support is a testament to Paul's dedication and tenacity to achieve successful results.

Recent noteworthy achievements include the following: appointed as lead trial counsel for all litigation arising from construction of Pennsylvania's tallest skyscraper (Comcast Technology Center); appointed as lead trial counsel for Temple University Health System's medical malpractice legal team; successfully defended a propeller manufacturer in a three-week trial in a case of first impression; secured a decisive victory for a multinational hotel corporation in connection with the bombing of an Islamabad hotel; secured a seven-figure verdict for a terminal owner resulting from an oil spill in the Los Angeles harbor; defended a company implicated in a \$60 million claim for alleged contamination of a hospital sterilization unit; and secured a defense verdict for a national transportation company in a three-week, seven-figure trial. Paul also led the defense of mass tort litigation involving dietary supplements and represented a private equity firm in claims against fraudulent corporate sellers.

Paul's national reputation as a trial lawyer has resulted in him being appointed as national litigation and coordinating counsel to well-known Fortune 500 companies. He understands his clients' industries and operations and partners with clients to develop effective risk management protocols, emergency response systems, and coordinated litigation/trial strategies. Paul currently serves as national dram shop counsel to a restaurant conglomerate, trying high exposure cases throughout the United States. He also serves as national trial counsel to the largest distributor of exterior and interior building products in the United States.

Paul received his undergraduate degree from Fairfield University where he was captain of the hockey team and was awarded the Eastern College Athletic Conference Medal of Merit for excellence in sports and in the classroom. After several years in the corporate world as a claims executive at a global insurance company, Paul attended Pace University School of Law, earning his J.D. in 1998. Paul is a graduate of the FBI's Honors Intern Program and earned a trial certificate from the International Association of Defense Counsel Trial Academy at Stanford Law School.

### Practice Areas

- Product Liability
- Construction Law
- Transportation & Logistics Litigation
- Class Actions
- Commercial Litigation
- Strategic Risk & Complex Litigation

### Industry Sectors

- Hospitality
- Retail

### Education

- Elisabeth Haub School of Law at Pace University, J.D., 1998
- Fairfield University, B.S., 1992

### Bar Admissions

- New Jersey
- New York
- Pennsylvania

### Court Admissions

- Court Of Common Pleas - Philadelphia County
- New York Supreme Court
- Pennsylvania Supreme Court
- Superior Court of New Jersey
- Superior Court of Pennsylvania
- Supreme Court of New Jersey
- U.S. District Court -- Eastern District of New York
- U.S. District Court -- Eastern District of Pennsylvania
- U.S. District Court -- New Jersey
- U.S. District Court -- Southern District of New York
- U.S. District Court -- Western District of Pennsylvania

### Affiliations

- American Bar Association
- Defense Research and Trial Lawyers Association
- International Association of Defense Counsel
- Philadelphia Bar Association

### Awards & Honors

- "Irish Legal 100" - 2015-2019
- "Pennsylvania Super Lawyer – Rising Star" by Law & Politics - 2007. This award is

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conferred by Super Lawyers. A description of the selection methodology can be found here. No aspect of this advertisement has been approved by the Supreme Court of New Jersey.

- International Association of Defense Counsel (IADC) - accepted for membership, 2008
- 40 Under 40 receipt by the Philadelphia Business Journal - 2009
- Pennsylvania's Super Lawyers - 2012-2017. This award is conferred by Super Lawyers. A description of the selection methodology can be found here. No aspect of this advertisement has been approved by the Supreme Court of New Jersey.

Paul is a member of the board of directors of the Philadelphia Police Foundation, Police Athletic League (PAL), and Business Leadership Organized for Catholic Schools (BLOCS). He is a director on the Membership Development Committee for Philadelphia Country Club and served as coach and mentor for the Haverford Hawks ice hockey program. Outside of work, Paul coaches and watches his three children play lacrosse and he is an avid golfer.

## Experience

Secured a defense verdict after four-week trial in Los Angeles County in a case stemming from an accident the plaintiff alleged was caused by our trucking industry client's driver. The plaintiff sought more than \$10 million in damages, liability was hotly contested, and we precluded the plaintiff's liability expert from offering certain evidence at trial. After three days of deliberation, the jury found that our client was not negligent.

Obtained an award in our client's favor in an international franchise arbitration matter centered on the termination by our client of a 26-year franchise relationship covering 100 franchise locations in Malaysia and Taiwan, along with related development and distribution agreements, for which the opposition sought \$34 million in damages. After more than two years of litigation and nine days of hearing, with witnesses coming in from China, Singapore, and various states in the United States, the tribunal found that the franchisee was entitled to no damages and our client was entitled to recover on its counterclaims for lost profits and unpaid royalties. In addition, the tribunal entered a permanent injunction directing the claimants, *inter alia*, to transfer all product registrations using our client's trademarks and related tradenames at no charge to our client.

Won summary judgment for a national retailer of nutritional supplements in a case in which the plaintiff alleged that it sold tainted supplements.

Won a complete victory for private equity firm clients in a broker-finder fee agreement dispute, including securing dismissal of breach of contract and misappropriation of trade secrets claims.

Secured separate Emergency Interim Awards in two international arbitrations, under which a mandatory injunction was entered to restore the status quo that the parties enjoyed prior to the breach of distributor agreements by one group of distributors in Singapore and a second group in the Philippines. The distributor in Singapore was furthered ordered to pay in advance for product monthly.

Secured summary judgment for Marriott International, Inc. in a case centering on the plaintiff's allegation that he was severely injured when visiting a hotel in Saudi Arabia that he claimed Marriott owned and operated. The trial court granted summary judgment on the basis that Marriott had no actionable connection to the hotel at the time of the incident and therefore owed no duty to the plaintiff. A three-judge panel of the Superior Court of New Jersey, Appellate Division, affirmed in a unanimous decision, issuing an opinion adopting Marriott's arguments wholesale.

Represented a large busing company in connection with challenging an award of a substantial busing contract with a school district. Filed an injunction to challenge the RFP process and the school district's process and decision to award the contract to another bidder. The basis of the protest was that the school district advised the other bidder that the original bid parameters had changed, and allowed that entity to rebid pricing and other provisions, while the client was not given that opportunity. We challenged the fairness of the process and utilized discovery to solidify client's belief that there was an unlevel playing field. When the school district moved ahead with the contract award in the face of the formal protest, we filed a complaint and preliminary injunction that led to 4,000 documents being exchanged, and 15 depositions being taken, within a 7-day period. After a 10-hour injunction hearing, the court ruled in the client's favor.

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Successfully defended Marriott International, Inc. in connection with a third-party judgment enforcement information subpoena and purported restraining notices filed by Trump-affiliated entities in connection with an action involving the operation of a Panama-based, Marriott-branded hotel. The plaintiffs' goal appeared to be to pressure Marriott to satisfy a judgment obtained against the hotel owner in a Panamanian arbitration. We successfully moved to quash the restraining notices and for a protective order against further discovery directed to Marriott.

Defeated a request for an emergency injunction through which the plaintiff sought to freeze assets held by our private equity firm clients and to prohibit them from doing business with 31 brand name investors, including some with whom the clients had long-term contacts.

Secured a defense verdict in the first personal injury case to go to trial arising from the Comcast II construction project in Philadelphia. The plaintiff sought damages of seven figures for pain and suffering, lost wages, and loss of future earnings in the wake of multiple knee injuries alleged to have been caused by the client's foreman on the job site. Social media revealed inconsistencies in the plaintiff's case, both as to liability and damages, and the jury deliberated for only 30 minutes before returning a unanimous defense verdict.

Secured a \$3 million jury verdict, which was upheld on a motion to amend the judgment, on behalf of a company that stores and handles petroleum products in a lawsuit it filed against a company that mishandled a hydrostatic pressure test on a major pipeline, resulting in a significant oil spill. The spill was investigated by the U.S. Coast Guard and the California Department of Fish and Wildlife, and the defendant disclaimed all responsibility and called investigators to testify against the client at trial. During the four-day trial, the Cozen O'Connor team examined 25 witnesses, including experts, under court-imposed time restrictions, and the jury returned a unanimous verdict in the client's favor.

Obtained a unanimous defense verdict in favor of our client, a global transportation company, which faced millions of dollars in alleged damages stemming from a horrific motor vehicle accident in which the plaintiff suffered catastrophic injuries. The plaintiff's estate alleged that our client's employee caused the accident by running plaintiff's vehicle off the road, and then fled the scene. After winning summary judgment on claims of negligent entrustment and negligent supervision, the matter was tried over 2 weeks before Judge Gibson in the Western District of PA. This victory hinged on meticulous accident reconstruction, coupled with several critical evidentiary rulings in our favor on issues such as witness competency, excited utterance, admissibility of Facebook and other internet postings, admissibility of cell phone records, and hearsay.

Won summary judgment to defeat claims of negligence and breach of implied warranty of fitness for a particular purpose in a personal injury case in which the plaintiff was struck by a forklift sold by our client. In doing so, we convinced the court that a machinery seller has no duty to educate and inform a buyer about the product's safety accessories.

Obtained favorable settlement of a personal injury claim, for a fraction of the plaintiff's multimillion dollar demand, after presenting evidence during mediation that the plaintiff's alleged injuries to his neck and back pre-existed the auto accident at issue, and that the plaintiff's own reckless and negligent conduct caused the accident.

Won summary judgment on behalf of Marriott International in a multimillion-dollar wrongful death lawsuit brought by the family of a man who died when a suicide bomber drove into a Marriott hotel in Pakistan. We successfully argued that, under the operative franchise agreement, the franchisee was responsible (under either U.S. or Pakistani law) for handling all security measures at the hotel. This result was affirmed on appeal to the U.S. Court of Appeals for the Fourth Circuit.

Secured multiple dismissals for Marriott International and Ritz Carlton based on the doctrine of *forum non conveniens*, defeating forum shopping efforts by plaintiffs to litigate in the U.S.

Obtained dismissal of a defamation claim brought against our clients, a national association for amateur radio operators and three of its officers, by a former regional chair of the association. The plaintiff filed the lawsuit in the wake of an article the association published on its website explaining that his chairmanship had been terminated because of repeated unauthorized communications on the association's behalf with the Federal Emergency Management Agency. In dismissing the claim, the district court accepted our argument that the affirmative defense of truth was appropriately raised at the motion to dismiss stage because the defense was apparent on the face of the complaint, including undisputedly authentic documents integral to the allegations. This victory was affirmed by the U.S. Court of Appeals for the Third Circuit.

Successfully represented a nutritional supplement company sued for false advertising throughout the United States. After performing a detailed preliminary investigation, and conducting discovery, we secured a favorable resolution at the Early Neutral Evaluation conference.

Obtained dismissal, on the grounds of *forum non conveniens*, of a personal injury suit brought against an international hotel company by a New Jersey resident who was injured at a company-branded resort in Spain.

Secured dismissal of a large putative class action centering on allegations that our dietary supplement industry client sold multiple supplements containing two unlawful ingredients in violation of unfair competition and false advertising statutes. Arguments in the case centered on cutting-edge legal questions about requisite pleading standards regarding standing to bring consumer protection claims.

Successfully moved to dismiss a complaint on grounds of *forum non conveniens* on behalf of a trucking company, a railroad, and individual defendants in a wrongful death and survival action filed in Philadelphia County stemming from an accident that occurred in New Jersey.

Represented a large international financial institution (bank) in litigation involving the enforcement of an interest rate swap between the bank and a large central Pennsylvania area school district. After the swap agreements were executed and performed under for some time, the school district filed a declaratory judgment action to void the agreements, in an attempt to avoid payment of a significant termination fee. An issue of first impression involving cross-motions for summary judgment, the federal court in Harrisburg, Pa., ruled against the school district's argument that the agreements were unenforceable because the related bonds had never been issued.