

WILKOFSKY, FRIEDMAN, KAREL & CUMMINS



**Wilkofsky, Friedman,  
Karel & Cummins**

*Attorneys at Law*

## ADVOCATES FOR A CAUSE

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The partners and staff of Wilkofsky, Friedman, Karel & Cummins have won unprecedented property damage verdicts in the millions of dollars and are responsible for numerous landmark decisions which have enhanced the rights of consumers in confronting insurance company misconduct.

This history of success has served our clients well. We have regularly won compensation for the losses, damage and pain they have suffered.

We take great pride in the contributions we have made to improve our clients' lives. We are proud as well of the positive influence we have had on the insurance industry.

## WHAT WE DO

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Wilkofsky, Friedman, Karel & Cummins has been in existence since 1987. Our firm concentrates most of its work in the field of first-party insurance litigation and property damage litigation having represented clients in the Federal and State Courts throughout the New York-New Jersey, Connecticut and Pennsylvania metropolitan regions, as well as Florida, Texas, Louisiana, the Carolinas, Mississippi, Michigan, Wisconsin, Kentucky, Oklahoma, Georgia and Puerto Rico.

The firm specializes in representing victims of disasters such as fires, floods, hurricanes, theft, pipe breaks, damage from adjacent construction, collapse, and other casualties as well as representing those with disabilities and personal injuries, protecting the rights of individuals and businesses with an aggregate of more than 200 years insurance litigation experience. In addition, the firm has personal injury and commercial litigation teams and has successfully litigated claims for grave injuries under the labor law, medical malpractice, toxic tort, legal malpractice, criminal matters and civil rights litigation.

## SERVICES

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**The law firm offers a full range of legal services for clients who find themselves in the following situations:**

- ♦ Homeowners, businesses and tenants, etc. who have suffered an insured loss such as a fire, theft, water damage, windstorm, flood damage, collapse or other casualty and who are not treated fairly, need help calculating and presenting their claim, or who are being hounded with oppressive demands by an investigating insurance company.
- ♦ Victims of property damage where some third-party may be responsible for causing the loss.
- ♦ Disability and life insurance claims.
- ♦ Personal injury and construction site accidents.
- ♦ Commercial litigation
- ♦ Toxic Torts
- ♦ Administrative matters at the State Insurance Department representing brokers, adjusters and insureds.
- ♦ Commercial collection matters.
- ♦ Insurance coverage consulting. Let us review your insurance policies now before a loss occurs as to the sufficiency of your coverages.
- ♦ Victims of legal and medical malpractice.
- ♦ Criminal matters.

## A SAMPLING OF OUR CLIENTS

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The Hampshire House on Central Park South, The Town of Shadow Mountain Oklahoma, Coral Realty, NYU Downtown Dormitory, Barry Jacobson and Joseph P. Day Realty, Rihanna's 2014 Tour, Rihanna, record producer, songwriter and rapper Timbaland, Blue Ridge Rock Festival, Blockfusion USA, Owen Smith and Long Island's Milleridge Inn, Lido Beach Towers ("The Pink Lady"), National Bank of New York, The Indonesian Mission to the United Nations, Loehmann's, Adolfo, Peter Kalikow, Kikit, Jordache, San Giorgio, Barthman's Jewelry, The Guggenheim Trust, Cliftex, Inc., Village of Rockville Centre, Waste Management of New York, Churchill Furniture, Donovan Data Systems, Ginori China, the artists Isabelle Borgotta, James Rizzi and Virginia Jaramillo, Tuv Taam Corp., Central Amusement International, owners of Coney Island's Luna Park, United States Small Business Administration, The Macklowe Organization, The Durst Organization, Levites Realty Corp., Heller Realty, Residential Management, Roma Furniture, Citizens Against Unfair Insurance Practices, GMAC, Homecoming Financial Network, Pearl Artist and Craft Supply Corp, Sikh Cultural Society, Thurcon Properties, Ltd., Susan Magrino Agency, Inc., Riviera Caterers, LLC, Philips International, New York Public Adjusters Association, New Jersey Public Adjusters Association, International Gold Star Trading, Orlando Sun Resort & Spa, Chemnutra, Inc., Waveland-Bay St. Louis Board of Education, Sentinel Real Estate Corp., Quoizel, Inc., Consulate General of Lebanon, Safavieh Int'l, LLC, actress Drea DeMatteo and the victims of the 2015 Second Avenue Gas Explosion, and thousands of other commercial and residential victims.



## JONATHAN J. WILKOFSKY

Jonathan J. Wilkofsky is our founding and managing partner. He has been litigating insurance coverage and property damage claims for more than 42 years. He has represented victims of catastrophes occurring all over the world including the "Monrovia Fires" in West Africa as well as one of the largest gas pipeline explosions in the country in the "Hellgate" case, which led to a multi-million dollar settlement during trial. Mr. Wilkofsky, who has yet to lose a

jury verdict, has represented several thousand victims of insurance company misconduct.

Mr. Wilkofsky was lead counsel in the matter of Riordan v. Nationwide Mutual Fire Insurance Company. That case, tried before the Chief Judge of the Southern District of New York and argued before the Second Circuit Court of Appeals, was the first case in the history of the State of New York where an insured successfully prevailed against an insurance carrier for attorneys' fees and punitive damages for deceptive acts and practices.

Additionally, Mr. Wilkofsky was lead trial counsel in Newark Center Building Co. adv. Atlas Assurance Company, which represents one of the largest property damage verdicts in New York Supreme Court history at 12.6 million dollars. The case involved the asbestos contamination and resulting abandonment of the former New Jersey state office building in Newark, New Jersey.

Mr. Wilkofsky won a verdict in excess of \$1 million against Allstate Insurance Company for damage caused to a home by a supersonic Concorde aircraft taking off from JFK. The trial involved the testimony of six engineers and required proof that sonic energy had cracked a steel and concrete waterfront home from more than three miles away.

Mr. Wilkofsky has been the Executive Director and General Counsel of the New York Public Adjusters Association since 1994 and the New Jersey Public Adjusters Association since its founding in 2005.

Mr. Wilkofsky has also drafted insurance related legislation and insurance regulations to better protect the consumer. In 2014 Governor Cuomo signed into law legislation proposed and championed by Mr. Wilkofsky which clarifies that scope of loss is appraisable in New York. This legislation will significantly benefit generations of insurance consumers. In 2010, Governor Paterson signed a bill drafted by Mr. Wilkofsky creating an expedited special proceeding to enforce the insurance policy's appraisal provision. He has also drafted and spearheaded the passage of legislation requiring language to be added to every property policy issued in New York which mandates the insurance company to share their experts' reports upon demand by the

insured. (Insurance Law §3407(a)). The bill was signed into law by Gov. Pataki on September 15, 2001 to assist victims of 9/11 and its protections remain in place today. Mr. Wilkofsky drafted and lobbied for the passage of a law requiring minimum standards and mandatory continuing education for insurance adjusters which passed the legislature and was signed by Gov. Pataki in 1998.

In 2013, Governor Cuomo signed legislation drafted by Mr. Wilkofsky protecting consumers from dishonest public adjusters and contractors. It provides for avoiding conflicts of interest, transparency and professionalizing the adjusting industry.

He has lectured for the New York State Bar Association on the subject of trial tactics, and has spoken on the subjects of "The Appraisal Process" and the role of the public adjuster in the adjustment process and the Insurance Laws and Regulations of New York. He is also the author of the legal treatise, *The Law and Procedure of Insurance Appraisal* for which he received the 2004 Cordish Writing Award from the National Association of Public Insurance Adjusters. The Third Edition was published at the end of 2015. In December, 2007 Mr. Wilkofsky was named Person of the Year by the National Association of Public Insurance Adjusters where he served on the Board of Directors from 2014 to 2015.

Since 2013, Mr. Wilkofsky has been named annually to the Superlawyers' list of top attorneys and has been also listed as a top 100 trial lawyer by the National Trial Lawyers Association since 2013.

In 2016, Mr. Wilkofsky was named General Counsel to the Insurance Appraisal and Umpire Association (IAUA) and has worked to expand, train, and nationalize the roster of certified appraisers and neutrals to better protect consumers and the appraisal process throughout the United States. Mr. Wilkofsky has been a featured speaker on insurance coverage issues at the First Party Claims Conference held in Rhode Island and California annually since 2007.

Among the leading voices for consumers in the aftermath of Superstorm Sandy, Mr. Wilkofsky was invited to testify on behalf of consumers at the legislative hearings investigating the insurance industry's response to the storm and at the roundtables held by the New York State Assembly Insurance Committee thereafter.

In 2019, the government of Puerto Rico adopted Wilkofsky's theories through legislation and executive orders intended to help fairly resolve tens of thousands of Hurricane Maria claims and he was asked to develop and present the program to train and certify the first umpires on the island, as well as the island's judges sitting in Puerto Rico's Specialized Insurance Courts. Thousands of claimants, municipalities and the insurance industry are benefitting.

Mr. Wilkofsky is currently working to win passage of a bad-faith bill in Albany which is pending in the legislature, which is needed to better protect insurance consumers.



## MARK L. FRIEDMAN

As senior trial partner, Mark Friedman has been litigating insurance-related cases for over 48 years. During this time, he has successfully protected policyholders against false claims of arson and fraud in hundreds of jury trials in state and federal court. He has also assisted numerous disabled individuals in obtaining disability benefits which were wrongfully withheld by insurance carriers, including UnumProvident and Paul Revere. As an outgrowth of this practice, Mr. Friedman also pursues class actions against insurance carriers for widespread abuses against the public at large. He was lead counsel in a novel class action where State Farm was found to have improperly

withheld “profit and overhead” in their payment of policyholders’ losses, depriving countless insureds of benefits which they paid for when they purchased their policies. He was lead counsel in a class action against Tri-State Consumers Insurance Company for unethical claims abuses involving its policyholders. Mr. Friedman has also successfully represented the New York State Public Adjusters Association in lawsuits and appeals on vital issues ranging from insurers’ improper attempts at expanding policy exclusions and definitions and limiting consequential damages to the carriers’ efforts at refusing payment to innocent co-insureds. In 2013, he was also successful in having the Court of Appeals expand the contractual limitations period beyond 2 years in situations where it is impossible for a policyholder to complete repairs in that period. [Executive Plaza v. Peerless Ins. Co.](#)

In 2008, Mark authored the winning appellate brief on behalf of the consumer’s perspective in the landmark case of [Bi-Economy Market, Inc. v. Harleysville Ins. Co.](#) In that case, New York’s highest court upheld the right of policyholders to have their insurance companies investigate claims fairly, promptly and in good faith. When an insured suffers additional damages as a result of a carrier’s excessive delay or improper denial insurers are now responsible for those consequential damages.

Mark Friedman has been involved as trial counsel in several multi-million dollar verdicts and decisions and has obtained hard-fought awards of punitive damages in several of them. His experience transcends trial advocacy to include appeals where he has authored and argued numerous appeals both for individual causes and on behalf of Amicus Curiae in insurance-related cases on behalf of the policyholder. Most recently, he has successfully defended MAXON INDUSTRIES (the company that produces cargo lifts that are ubiquitous on the rear-end of countless trucks in America) in California in an \$80 million personal injury matter. He is also involved in North Carolina, Louisiana and Florida in an ongoing effort to protect policyholders’ rights arising out of hurricane and flood losses in those states. He has successfully concluded several multi-million dollar cases on Long Island arising out of Superstorm Sandy.

Mr. Friedman is a graduate of Brooklyn Law School and began his career in criminal law providing the rich underpinning of his present practice.

Mr. Friedman has been recognized by Super Lawyers Magazine as a top-rated insurance coverage attorney in New York and has earned numerous testimonials from many satisfied clients.



## HARRY A. CUMMINS

Harry A. Cummins has been litigating first and third-party property cases on behalf of victims for the past 38 years. Mr. Cummins also handles errors and omissions litigation involving insurance brokers. When Hurricane Katrina devastated much of the Gulf Coast, he helped establish the firm’s office in Louisiana and represented clients in that region who suffered catastrophic losses.

Mr. Cummins represents residential and commercial building owners, providing advice on insurance coverage issues as well as handling coverage litigation with their liability insurers with respect to issues of defense and indemnification.

Mr. Cummins has briefed and argued numerous appeals in the areas of insurance coverage, property damage and insurance broker liability.

A graduate of the State University of New York at Binghamton and New York Law School, Mr. Cummins is admitted to practice in the state courts of New York, New Jersey and Pennsylvania, as well as the United States District Courts for the Southern, Eastern and Northern Districts of New York, United States District Court for New Jersey, Middle and Eastern District of Pennsylvania, and oversees the firm’s day to day operations in those states. He is a member of the New York State Bar Association.

Mr. Cummins has spoken on insurance related topics at the First Party Claims Conference and for other organizations.



## ROMAN RABINOVICH

Mr. Rabinovich, a partner at the firm, focuses his practice on insurance coverage claims on behalf of policyholders and defense of general liability claims against business and property owners, contractors, and insurance industry professionals. In addition, Mr. Rabinovich represents co-op and condominium boards and individual owners/shareholders in both first-party (claims against their insurance carriers) and third-party (claims against tortfeasors) actions.

Handling cases from intake to trial, Mr. Rabinovich has successfully obtained judgments for his clients and argued dozens of dispositive motions at both the trial court and appellate levels. He also served as an assistant municipal prosecutor in New Jersey, where he was responsible for prosecuting misdemeanors, motor vehicle and traffic infractions, and violations of state and local ordinances and codes. He

has spoken at town hall meetings in New York and New Jersey regarding Superstorm Sandy and has represented the N.Y. Public Adjusters Association at several New York Assembly Roundtable meetings to address specific insurance issues.

Mr. Rabinovich received his B.B.A., magna cum laude, from Baruch College and his J.D. from Brooklyn Law School, where he was the recipient of the prestigious CALI Award for Excellence in Legal Writing. He served as a junior law clerk to the Honorable David Trager of the United States District Court for the Eastern District of New York. He is admitted to practice in all New York and New Jersey state and federal trial courts and is a member of the American Bar Association and the New York State Bar Association.

Known for his thoughtful and no-nonsense approach to litigation, Super Lawyers Magazine has recognized Mr. Rabinovich as a top-rated insurance coverage attorney in New York, received a perfect 5.0 Peer Review Rating on Martindale-Hubbell, and has earned numerous testimonials from satisfied clients, some of whom have become friends.



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## ANDREA JONES-D'AUVERGNE

Andrea Jones-D'Auvergne has been a valued member of our staff since 1994. She is a graduate, with honors, from the Technical Career Institute and has a degree in Applied Science and Office Technology. With over 30 years of experience serving our clients and supporting the legal staff, Ms. Jones-D'Auvergne assumed the office manager's position in 2011 and brings her vast knowledge of court rules, electronic court filing systems, office systems and procedures and

office administration to the position. She is also responsible for supervising and managing the firm's extensive libraries, computer and data management systems, and the physical plant and equipment to support the firm's day to day operations. Her energy, intellect and empathy have long benefitted our clients and staff.



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## KEITH A. SELDIN

Keith A. Seldin is of counsel to the firm and manages our Florida office. He is leading our team supporting victims of Hurricane Irma. Mr. Seldin began his career in New York handling all aspects of commercial civil litigation, insurance defense and insurance subrogation. In 1980, he relocated to southern Florida and set up his own practice where he concentrates heavily on insurance, commercial, civil and real property related litigation. His areas of practice also include personal injury, real estate, business law, wills, probate, trusts and estates, and landlord tenant law.

Mr. Seldin is a graduate of Brooklyn College of the City University of New York (B.S., Accounting, 1972) and received his J.D. in 1976 from Western New England College School of Law. He is admitted to the New York bar, the Florida Bar, United States District Court for the Southern District of New York, the Eastern District of New York, the Southern District of Florida, and the U.S. Court of Appeals, Eleventh Judicial Circuit. He has also been certified by the Florida Supreme Court as a Circuit Court and County Court Mediator.

His compassion and dedication will be of great assistance to storm victims.



## MICHAEL D. BARNES

For more than 18 years, Michael Barnes has served his clients in North Carolina with dedication, skill and compassion. A lifetime member of the Million Dollar Advocates Forum, Mr. Barnes has represented victims of disasters and personal injuries as well as property damage from hurricanes. He has been of

counsel handling our claims in North Carolina since Hurricane Isabelle in 2005. He is the principal of the Barnes Law Office, LLC, located in Charlotte, North Carolina.



## DAVID BOOAKER

David has been a member of the Georgia bar since 2005. He has handled primarily first party insurance cases since 2014, when he successfully resolved a number of cases arising from Superstorm Sandy in New York and New Jersey after improprieties committed by insurers came to light during the litigation.

Since then, he has primarily focused on policy holders and claims arising in or under the laws in Georgia, and has handled a variety of claims for both commercial and residential policy holders. He represents policy holders at all stages of the claim, from initial investigation and carrier due diligence on to litigation and trial

Representative matters include a multi-million dollar fire loss sustained to a church; a seven figure loss to a metal fabrication facility as a result of an equipment fire; and a multi-million dollar festival event cancellation.

David resides in Atlanta with his wife and three children



## LESLEY E. LITTLE

Lesley E. Little is of counsel to the firm and manages our Texas practice. Les, a lifelong Houston resident, will be leading the firm's efforts on behalf of victims of Hurricane Harvey. During his 20-year legal career, Lesley Little has represented individuals and organizations in a variety of litigation at the state and federal levels. His case experience includes first-party insurance and coverage litigation, product liability, wrongful death, personal injury and securities litigation. He has been the lead attorney in numerous cases involving multi-million dollar verdicts or settlements. Les is also a member of Buck, Keenan, Gage, Little and Lindley, where he's protected his client's interests since 2001.

Prior to joining our partner firm in Houston, Keenan, Gage & Little in 2001, Mr. Little was a shareholder with Little & Baird. He received his Bachelor of Business Administration degree from Southern Methodist University and his Juris Doctor from the University of Houston Law Center. He is a member of the State Bar of Texas Litigation and Insurance sections. Mr. Little is on the Board of Directors for The River Performing and Visual Arts Center and a member of St. Luke's United Methodist Church. Mr. Little is admitted to the U.S. District Court, Southern District of Texas and U.S. District Court, Eastern District of Texas.



## CAREY R. VARNADO

Carey Varnado is a seasoned attorney with extensive experience in Insurance Litigation, Personal Injury, Medical Malpractice, Toxic Tort Litigation, and General Civil Litigation. Licensed to practice in Louisiana, Mississippi, and before the U.S. Court of Appeals for the 5th Circuit and the U.S. District Court for the Southern District of Mississippi, Carey has been a trusted legal advocate for over four decades.

Carey earned his Juris Doctor from Tulane Law School in New Orleans in 1976, following his undergraduate studies at the University of Alabama, where he graduated with honors and was inducted into Phi Beta Kappa. His academic background in history has informed his legal practice, allowing him to bring a thoughtful and analytical approach to complex litigation.

Throughout his career, Carey has represented a wide range of clients, including United States Fidelity & Guaranty Company, John Crane, Inc., Andritz, Inc., Claims Management Services, Inc.,

Country Living Insurance, Inc., R&R Foods, Inc., Stonington Insurance Company, Casablanca Construction, the Hattiesburg Convention Commission, and the Library of Hattiesburg and Forrest County. His dedication to his clients and his exceptional legal acumen have earned him recognition in Best Lawyers in America, membership in the Million Dollar Advocates, and honors in Outstanding Lawyers of America. Carey is also the recipient of the Mississippi Bar Foundation Law-Related Public Education Award, reflecting his commitment to both the legal profession and public service.

Beyond his practice, Carey is an active member of the Louisiana State Bar Association, the American Bar Association, and the Mississippi State Bar. He also serves on the Board of Trustees for Hattiesburg Public Schools, demonstrating his dedication to community involvement and education.



## LESLIE JONES THOMAS

Leslie Jones Thomas was born in Brooklyn, New York. She earned her B.A. in Political Science at Oglethorpe University. At Oglethorpe, Ms. Jones Thomas was a recipient of the Oglethorpe University Merit Scholarship for 4 years and the Leopold Schepp Scholarship for 3 years. She served as the Salutatorian of her class, graduating cum laude with distinction in Political Science & History.

Ms. Jones Thomas graduated from Georgetown University Law Center in 1983. During her tenure at Georgetown she served as the Mid-East Regional Secretary of BALSAs.

Ms. Jones Thomas began her professional legal career at the Bronx District Attorney's Office, where she served as an Assistant District Attorney for eight years under District Attorneys, Mario Merola and Robert T. Johnson. During her tenure as a Bronx ADA, she worked on special assignment for Special Narcotics Prosecutor Sterling Johnson prosecuting major drug offenders, violent felons, conducting wiretap and long term investigations on major cases while interfacing with the DEA, Alcohol Tobacco & Firearms and other federal

agencies involved in drug and weapons enforcement.

Ms. Jones Thomas has been in private practice for almost 30 years specializing in the areas of federal/state criminal defense, matrimonial, family and civil litigation on behalf of individuals, companies and corporations. She is the past Director of the National Bar Association Region II. In 2013, Ms. Jones Thomas was honored as a top Solo by the NBA Small Firms/Solo Practitioner's Section. Ms. Jones Thomas was honored for stalwart service to the Metropolitan Black Bar Association.

Ms. Jones Thomas is a Past President of the Association of Black Women Attorneys, is an active member of the MBBA, ABA, New York City Bar Association, New York State Bar Association, New York Women's Bar Association, New York County Lawyers Association, Bronx Black Bar Association, New York Criminal Bar Association and NYS Association of Criminal Defense Attorneys.



## DAVID C. INDIANO

David C. Indiano is of counsel to the firm and (along with Jeffrey Williams and their staff) handles our claims arising in Puerto Rico.

David, who grew up on Cleveland's eastside, attended Miami University as well as the Institute of European Studies in Madrid, Spain. He graduated from Miami University with honors in 1976, attending Case Western Reserve School of Law where he served as editor-in-chief of the law school's Journal of International Law. Dave has been in private practice 37 years and is the founding member of the firm of Indiano & Williams, PSC which he leads to this day. He was inducted as a Fellow of the American College of Trial Lawyers and has

served as Puerto Rico's chair to the College.

Dave was appointed by the Federal court to the Plaintiffs Steering Committee in the Dupont Plaza Fire litigation case and was editor-in-chief of the award-winning newspaper of the Puerto Rico chapter of the Federal Bar Association for 10 years.

Dave is admitted to practice in the Federal and State Courts of Puerto Rico and Ohio, the First and Third Circuit, as well as the United States Supreme Court.

He will be a strong voice on behalf Puerto Rico's hurricane victims.



## JEFFREY M. WILLIAMS

Jeffrey M. Williams is of counsel to the firm and (along with David Indiano and their staff) handles our claims arising in Puerto Rico.

Jeff was born in Caracas Venezuela and raised in San Juan, Puerto Rico. He graduated cum laude from the University of Florida, in 1981 and after attending La Sorbonne, he studied law at University of Illinois, Champaign-Urbana where he graduated in 1984.

From 1984-1985 Jeff served as law clerk to Honorable Magistrate Judge Justo Arenas, U.S. District Court for the District of Puerto Rico and served as law clerk to Honorable Judge Hector M. Laffitte, U.S. District Court for the

District of Puerto Rico from 1985 to 1986.

After his clerkships, Jeff was in private practice. During this time, he gained ample trial and appellate court experience. In 1991 he co-founded Indiano & Williams, P.S.C. which has been dedicated to its clients interests for 27 years.

Jeff is admitted to practice in the State and Federal Courts of Puerto Rico, the First Circuit and the United States Supreme Court. His dedication, empathy and experience have been an extraordinary benefit to his clients and will be for hurricane victims.



## MICHAEL MCGREW

Mike McGrew is of counsel to the firm and is our boots on the ground in Oklahoma. With a commitment to making things fair for policyholders, he and his family firm specializes in representing individuals and businesses in insurance litigation including bad faith and breach of policy claims with over 30 years of experience helping Oklahomans resolve their insurance claims arising from wind/hail, fire loss, water intrusion or other traumatic events. Mike sees his mission as unique-to make sure that the client is treated fairly by the insurance company after a loss. Other practice areas in Oklahoma include construction litigation, uninsured motorist claims, employment claims and wrongful death.

Working within a family firm, Mike takes great pride in providing aggressive representation and candid advice in order to solve their clients' most important insurance problems. Mike is married to Mary McGrew, the firm's office manager and his son, Matthew McGrew is an Associate at the firm along with Robin McGrew and Kristen Merritt. Together as McGrew, McGrew and Associates they have been a strong voice for policyholders for decades.

## MARTIN A. DURKIN

Martin A. Durkin was admitted to practice law in the Commonwealth of Pennsylvania in 1982. Mr. Durkin served as an Assistant Chief District Attorney in Philadelphia, where he tried numerous notorious cases and secured the first conviction in Pennsylvania for hate crimes. After distinguished service as a prosecutor, Mr. Durkin joined a large multi-national law firm headquartered in Philadelphia. He was elected a partner and focused on the representation of insurers in arson and insurance fraud matters.

Recognizing a strong need for more personalized legal services in the property and casualty area, in 1995 Mr. Durkin founded his own boutique law practice representing individuals and business entities focusing primarily in the practice areas of fire and explosion litigation, property damage, disaster law, and insurance bad faith. He has obtained countless significant recoveries for his clients and is a highly regarded litigator in federal courts and in the Courts of Common Pleas in urban,

suburban, and rural areas throughout the Commonwealth.

Mr. Durkin serves as a Judge Pro Tem for the Court of Common Pleas of Philadelphia County, and as an Arbitrator in the United States District Court for the Eastern District of Pennsylvania, and in Philadelphia County. He has been selected by Philadelphia Magazine as a "super-lawyer" in the field of insurance coverage.

He is a graduate of Rider University, where he received his undergraduate degree in industrial relations, and Pepperdine University, where he received his Juris Doctorate. At Pepperdine Law, Mr. Durkin was awarded the American Jurisprudence Awards for torts and civil procedure, and was the chairman of the law school's Honor Board. He is admitted to practice in the Commonwealth of Pennsylvania, all three Pennsylvania Federal District Courts, and has tried many cases in New Jersey, Delaware, Maryland, and Massachusetts.



## WILKOFSKY, FRIEDMAN, KAREL & CUMMINS – LEGISLATIVE ACCOMPLISHMENTS



Bill 6266-A, Sponsored by Senator William J. Larkin, Jr. and Assembly member Aileen Gunther. An act to amend the insurance law in relation requiring continuing education and minimum standards for public adjusters. Drafted by Jonathan Wilkofsky and signed into law by Governor George Pataki on July 10, 1998. This Bill raised the level of conduct required by

public adjusters by creating minimum standards and a requirement for continuing professional education. It will help protect insurance consumers once they have had a loss.

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Bill 842-A, Sponsored by Senator Guy Vellella and Assembly member Steven B. Kaufman. - An act to amend the insurance law in relation to requiring inclusion of a provision in all property casualty policies requiring the insurer to furnish their written estimates of loss and damage to the insured within 30 days of their preparation. Drafted by Jonathan Wilkofsky and signed into law by Governor George Pataki on September 19, 2001, just days after the World Trade Center attack. This law amended every property

insurance policy written in New York to include a requirement that the insurer provide the estimate(s) which are the basis of any offer they make. This corrected a flaw in the existing law that required insurers to provide estimates of damage in a minor auto accident but had no such requirement in the event of a loss to a building or home (like in the World Trade Center). This permanently improves every policy in the state.

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Bill 2088-A, Sponsored by Senator Neil D. Breslin and Assembly members Joseph D. Morelle, Vivian E. Cook, Ginny Fields, Mark Schroeder, Ellen Jaffee, David Koon, Alan Maisel and Kenneth Zebrowski, Jr.. An act to amend the insurance law and civil practice law and rules, in relation to

standard fire insurance policies in order to create a new and efficient special proceeding allowing consumers to enforce the policy's appraisal provision without lengthy, expensive litigation. Drafted by Jonathan Wilkofsky and signed into law by Governor David Paterson on March 13, 2010.

## WILKOFSKY, FRIEDMAN, KAREL & CUMMINS – LEGISLATIVE ACCOMPLISHMENTS

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Bill 2088-A, Drafted by Jonathan Wilkofsky and sponsored by New York Senator Neil D. Breslin and Assembly members Joseph D. Morelle, Vivian E. Cook, Ginny Fields, Mark Schroeder, Ellen Jaffee, David Koon, Alan Maisel and Kenneth Zebrowski, Jr. An act to amend the insurance law to allow either the insured or the insurer to apply to the Court for an order directing

the other to comply with a demand for appraisal, whenever either party fails to proceed with an appraisal upon demand of the other in the event of a covered loss. This Bill created a new special proceeding to shorten the time it takes and the fees involved to have a court enforce the Appraisal provision. It was signed into law by Governor Patterson in 2010.

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Bill AB 9346-A/SB 4756-A, Sponsored by Majority Leader Joseph D. Morelle and Senator John DeFrancisco. An act clarifying that scope of loss or extent of loss issues are appraisable under the Appraisal provision of every insurance policy issued in New York. The law states that Appraisal shall apply to a determination of the actual cash value, the replacement cost, extent of loss or damage and amount of loss or damage, but specifies that Appraisal may not determine matters of policy coverage. This Bill enhanced the rights of

thousands of insurance consumers for generations to come and enables them to obtain the benefit of the appraisal clause and avoid litigation with its costs and delay. New York is the first state to protect consumers in this way. Mr. Wilkofsky worked on this legislation for more than 10 years before winning unanimous passage in both Senate and Assembly. Governor Cuomo signed it into law in November, 2014.

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Bill 5775, Sponsored by Senators Jeffrey D. Klein and Jack M. Martin and Assembly member David I. Weprin. An act to amend the insurance law in relation to public adjusters and consumers and payment of property/casualty claims. This law protects consumers from dishonest contractors and public adjusters. It provides for avoiding conflicts of interest, transparency and professionalizing the adjusting industry. The law was drafted by Jonathan

Wilkofsky at the request of Senate Co-President Senator Jeff Klein and signed into law by Governor Cuomo on December 18, 2013. Wilkofsky was subsequently requested by the Department of Financial Services to assist in rewriting the insurance regulations regarding the public adjusting industry. Those new regulations are expected to be issued in 2018.

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Public Adjusters' Licensing Act, 17:22B-13(a), This Bill prohibited any individual, firm, association or corporation licensed by the State of New Jersey from soliciting the adjustment of a loss or damage occurring in New Jersey from an insured, whether by personal interview, by telephone, or by any other method, between the hours of six p.m. and eight a.m. during the 24 hours

after the loss has occurred. This Bill was designed to avoid the problem of consumers being harassed after a loss by solicitors seeking to be retained to handle the claim and to provide for some order and enhanced professionalism on the part of the loss adjusting industry. The Bill passed and was signed by Governor Chris Christy.

## LANDMARK DECISIONS

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Riordan v. Nationwide Mut. Fire Ins. Co., 977 F.2d 47 (2nd Cir 1992)

First and only case where an insured recovered punitive damages and attorneys' fees against an insurer for bad faith claims practices in New York State. Tried before Chief Judge Charles L. Briant of the Southern District of New York and argued to the Second Circuit Court of Appeals.

Lane v. Security Mut. Ins. Co., 96 N.Y.2d 1, 724 N.Y.S.2d 670, 747 N.E.2d 1270 (2001)

The firm wrote the winning Amicus brief to the New York Court of Appeals. The decision protects innocent spouses when an intentional fire is set by another "insured" and declares a policy may not exclude coverage for an innocent insured.

Mazzocki v. State Farm Fire & Cas. Co., 766 N.Y.2d 719 (3rd Dept. 2003)

Decision protected New York insurance consumers by confirming that both "replacement cost" and "actual cash value" includes an allowance for contractor's overhead and profit even if not actually incurred in any claim for damage that required multiple trades for repairs. The decision increased recoveries for consumers by approximately 20% on all claims likely to involve use of a general contractor.

Bi-Economy Market, Inc. v. Harleystown Ins. Co. of N.Y., 10 N.Y.3d 187, 856 N.Y.S.2d 505, 886 N.E.2d 127 (2008)

The firm submitted the winning Amicus brief to the New York Court of Appeals. The case recognizes a right for insurance consumers to recover consequential damages for the loss of a business that resulted from an insurer's delay in payment of a fire claim.

Executive Plaza LLC v. Peerless Ins. Co., 22 N.Y.3d 511, 5 N.E.3d 982 (2014)

The firm submitted the winning Amicus brief on this far reaching and historic decision in which New York's highest court stated that policyholders should be permitted as long as reasonably needed to complete repairs, even if that time period extends past the two year policy limitations period. The policy only allowed recovery of full replacement benefits if and when repairs are complete but required suit be brought within 2 years. These provisions were found to conflict. The court stated: "a limitations period that expires before suit can be brought is not really a limitations period at all, but simply a nullification of the claim." In reporting the decision, the New York Law Journal quoted our brief: "By offering replacement cost coverage and then reneging, Peerless acts like a confidence man, patting you on the back with one hand and picking your pocket with the other."

Bechir Louati v. State Farm Fire and Casualty, New York Appellate Division, First Department (2018)

In the first decision of its kind, the New York Appellate Division, First Department, clarified the 2014 Appraisal Legislation drafted by Wilkofsky to establish that in an insurance appraisal, the award can determine whether payment is appropriate to match adjoining undamaged areas to make an area uniform as existed before the loss as with floor tiles, siding, roof shingles, kitchen cabinets, etc. This will allow for more just and complete appraisal awards.

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From Left to Right: Sitting: Mark Friedman, Harry Cummins; Standing: Jonathan Wilkofsky, Roman Rabinovich

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For more information please access our website at [www.wfkclaw.com](http://www.wfkclaw.com). You will find information about the firm, its staff and activities. Also available are news articles, reports and releases concerning our cases and the causes we are working on.