

# LITIGATION VICTORIES

[Stephanie DiVittore](#) and [Lindsey Cook](#) represented a California corporation which entered into a series of large equipment leases with several related companies. When the lessees defaulted on payments under the lease agreements, the company filed suit in California and obtained a default judgment against the related companies and the individual owners of the companies. The company transferred the judgment to Pennsylvania, the location of the defendants, for execution proceedings. One of the corporate defendants and its owner filed a petition to strike the judgment, contending that the California court lacked personal jurisdiction over them. The trial court denied the petition, and that decision was appealed. The Pennsylvania Superior Court, after briefing and oral argument, determined that the foreign judgment was, in fact, entitled to full faith and credit with respect to the appellants. The Superior Court determined that the lower court properly determined that the California court had specific jurisdiction over the appellants. It upheld the determination that, per the effects test, appellants purposefully availed themselves of California's benefits, the California action was related to appellants' contacts with California and the exercise of jurisdiction comported with fair play and substantial justice as required by the Due Process Clause of the 14th Amendment to the U.S. Constitution.

[Michael Crocenzi](#) obtained a jury verdict for a landlord accused of negligence by his tenant. The tenant alleged that a leaking gutter above her front door caused ice to form on the concrete porch in front of her front door. The tenant claimed that while taking the trash out one morning, she slipped on a spot of ice and broke her ankle that eventually required five surgeries. After three days of testimony from various witnesses and experts, the jury did not find the landlord negligent.

[Justin Tomevi](#) and [Brian Ott](#) represented the beneficiary of an estate in a will contest dispute with his stepsisters in Berks County. Upon the death of their client's father, no will could be found and pursuant to Pennsylvania's intestacy laws, their client would have received the entire estate. However, the stepsisters surfaced and alleged that their stepfather had created a handwritten will that split his estate equally among his son and the stepsisters. At trial, Justin's cross examination exposed the flaws in both the stepsisters' testimony and the purported handwritten will. The judge entered a decision rejecting the handwritten will and affirming that Justin and Brian's clients would be the sole beneficiary of the six-figure estate.

[Salvatore Anastasi](#) and [Joshua Schwartz](#) were instrumental in authoring an American Bar Association amicus brief filed in a U.S. Court of Appeals for the Federal Circuit patent case that will ensure "access to justice," a core principle of the ABA. The two combined with Chicago attorneys to write the brief for the ABA in *Nantkwest, Inc. v. Matal*. The brief was quoted by the court panel in reversing a previous decision that allowed for the U.S. Patent and Trademark Office to collect attorney fees in certain appeals cases.

[Justin Tomevi](#), [Scott Landis](#), and [Randy Moyer](#) represented the beneficiary of the estate of his late mother. Their client's late mother's will left her assets to her son and had appointed her accountant to serve as executor and trustee of her estate proceeds. However, when the mother had unexpectedly passed away, a large portion of her funds from a real estate transaction, were

held in a joint account owned by the late mother and her accountant. The accountant suggested that under the Pennsylvania Multi-Party Account Act, that the funds in the account belonged to the accountant, not the son. The Barley team quickly compiled a petition to force the accountant to turn the over the funds. In response, the accountant reversed course and agreed that she no longer was going to claim that she wanted the funds, but she now wanted to serve as trustee of the trust created to benefit the son by the late mother's will. The Barley team pushed back again and demanded that based on the accountant's actions, she should have no role in the estate. After threatening further litigation, the accountant completely backed down and turned over all of the funds and abandoned all involvement with the trust.

[Justin Tomevi](#) represented a national bank in a claim brought in the Montgomery County Court of Common Pleas by a secondary beneficiary of a six-figure IRA held by the bank. The beneficiary petitioned the court asking for an order forcing the bank to ignore the beneficiary designation's instructions which required the funds be issued to a trust. The beneficiary also asked the court to sanction the bank for refusing to cooperate with the proposed bypass of the primary beneficiary. Once retained by the bank, Justin convinced the beneficiary only days before the hearing to withdraw his petition and acknowledge that the IRA funds would only be payable to the primary beneficiary.

[Stephanie DiVittore](#), [Paul Minnich](#) and [Justin Tomevi](#) successfully defended an executor in response to a petition to remove that executor in the Cumberland County Court of Common Pleas – Orphan's Court Division. Two children of the decedent alleged that the executor had mismanaged funds and items of personal property. The Barley team responded aggressively to the allegations as false and misleading. At the hearing, Stephanie strategically cross-examined the petitioners, debilitating their claim and providing the court with a basis to grant Stephanie's motion to dismiss the case without the need for the executor to put on any evidence. The court also awarded sanctions in favor of the executor.

The owner of a helicopter leasing company retained [Justin Tomevi](#) to assist with the repossession of a helicopter from a challenging customer in Allegheny County. The customer was several months into a lease of a helicopter and stopped completing maintenance on the helicopter and refused to cooperate with the Federal Aviation Administration's requests for inspections. Justin and his client carefully orchestrated and executed a strategy for repossessing the helicopter, which was chained down and mechanically disabled in a locked airport facility. After successfully repossessing the helicopter in the early morning hours, the customer filed a preliminary injunction motion in the Allegheny County Court of Common Pleas asking the court to force Justin's client to return the helicopter. A preliminary injunction hearing was scheduled to occur only 72 hours after the motion was filed. After Justin filed a response threatening to seek attorney's fees and other sanctions at the injunction hearing, the customer agreed moments before the hearing was to begin to withdraw its demand to have the helicopter returned.

[Paul Minnich](#) and [Justin Tomevi](#) secured summary judgment in a case with over \$1 million in exposure for a banking client. A real estate developer customer of the bank alleged that the bank had failed to timely record a mortgage satisfaction piece for a property once encumbered by mortgages from the bank. The developer filed suit seeking a judgment of \$1,025,000 from the bank under the Mortgage Satisfaction Act. After conducting targeted discovery, the Barley

Snyder team developed an argument that the developer had failed to comply with certain provisions of the Mortgage Satisfaction Act and successfully established to the court that the bank had also acted in good faith. Upon consideration of competing summary judgment motions from the bank and the developer, the court promptly granted the bank's motion for summary judgment and dismissed all of the developer's claims.

[Justin Tomevi](#) and [Robert Tribeck](#) represented a bank in a case that had been appealed to the Pennsylvania Supreme Court by a mortgagor following a successful motion for summary judgment in a foreclosure action in Mifflin County involving a large commercial tract. On appeal, the mortgagor alleged several substantive and procedural defects to the loan and asked the Pennsylvania appellate courts to reverse the summary judgment order. After unsuccessfully appealing to the Pennsylvania Superior Court, the mortgagor asked the Pennsylvania Supreme Court to take the case. After the Barley team defended the decision of the Superior Court and trial court in its response, the Pennsylvania Supreme Court denied the mortgagor's appeal and found in favor of the bank.

[Justin Tomevi](#) represented a private student housing developer in a tax assessment appeal. After the York County Board of Assessment Appeals refused to reduce the \$2.7 million assessment of the property, Justin appealed the decision to the York County Court of Common Pleas. After the parties exchanged appraisals, the municipality agreed to reduce the assessment by nearly \$1 million, resulting in significant tax savings of over \$225,000 for the developer over the next five years.

[George Werner](#) and [Paul Minnich](#) won a \$650,000 decision for a client whose property was condemned by the Pennsylvania Department of Transportation under eminent domain. The decision, along with other damages, was more than twice what PennDOT offered to the client initially to buy the property. The jury deliberated on the case less than five minutes.

[Matthew Hennesy](#) was able to obtain a comprehensive victory for a property investor relating to a multi-million dollar group of investment properties. The properties were units in a planned community association. The association had adopted a provision to limit ownership in the community to only two units and the president of the association had suspended the investor client's voting rights in violation of a prior injunction order from the court. After a contempt hearing, the court found the association's attempt to limit ownership was invalid and the association's president had acted in bad faith in numerous respects, ultimately removing him as the association's president and barring him from serving as an officer of any such association for a period of five years. The court also awarded the investor client all of its attorneys' fees and costs stemming from the contempt hearing and lawsuit to invalidate the ownership restriction. In its opinion awarding attorneys' fees, the court noted that Barley was "able to obtain a complete victory" in the matter for its client.

[Matthew Hennesy](#) was lead trial counsel in an adversary proceeding in bankruptcy court where the landlord sought to invalidate the bank's lien against equipment to obtain payment of back rent owed by the company that had filed for bankruptcy protection. He successfully defeated the landlord's attempt to invalidate the bank's lien against the debtor's equipment resulting in a judgment that awarded the bank over \$200,000.

[Peter Faben](#) successfully defended a Central Pennsylvania dental and orthodontist group from a claim for damages stemming from allegedly mismanaged orthodontic treatments. Peter was successful in presenting evidence that showed that the plaintiff was not entitled to any damages under the terms of the services agreement, and was able to secure a judgment in his client's favor following a bench trial in August.

[Peter Faben](#) successfully defended a student in a paramedic program at a Central Pennsylvania institute of higher education in a suit alleging misconduct by EMTs during an emergency call. The student was participating in a ride-along program with the EMTs when the incident occurred. Peter was able to obtain a dismissal for the paramedic student due to procedural deficiencies with the action.

[Matthew Hennesy](#) represented a former business owner in a dispute with the entities that purchased the business. The new owners had induced the seller to execute a personal guaranty in exchange for payment and a promise to remove the guaranty within six months. After the purchaser refused to make payment and remove the guaranty as required by the agreement, Matthew was able to obtain summary judgment for payment of the money owed and a permanent injunction and specific performance to remove the guaranty as promised.

[George Werner](#) and [Matthew Hennesy](#) successfully represented a manufacturer against claims by former works relating to alleged workplace injuries. As a result of George and Matt's determined effort, the client has been dismissed from many of the cases and the court has held other claims frivolous.

After a 2017 decision [Michael Crocenzi](#) won for a radiology group being sued for breach of contract and defamation, he revisited the case in 2018 on appeal to the Pennsylvania Superior Court. With the plaintiff seeking \$330,000 in compensation, costs of litigation and attorneys' fees, Crocenzi scored a second victory in the case as the state Superior Court agreed with the lower court ruling after reviewing the briefs and listening to oral arguments this spring.

Two top executives sued their former financial institution for more than \$10 million, but [Michael Crocenzi](#) made sure the company didn't have to pay. The two executives said their former employer violated their state whistleblower law for firing them after they complained the company didn't follow the directives of federal regulators – a charge refuted by the company. Crocenzi convinced a county jury the financial institution did not violate the whistleblower law and the jury rendered a verdict in favor of the financial institution.

Joshua Schwartz obtained summary judgment for a large corporate client in a pregnancy discrimination case in U.S. District Court for the Southern District of Indiana. The plaintiff contended not only that she was fired inappropriately, but also that she was kept in a room and prevented from using the bathroom, resulting in labor complications. Following the plaintiff's deposition, the judge adopted our argument that no reasonable juror could find discrimination under the circumstances.

The Commonwealth Court agreed with Joshua Schwartz's interpretation of the law in a breach of contract action brought against a municipality. The Commonwealth Court overturned an earlier decision from the lower court on Joshua's argument that the original trial judge had incorrectly applied the law, finding in favor of Barley's municipal client.

Josh Knapp represented a central Pennsylvania-based, full-service drilling contractor and several of its employees in defense of a non-competition and misappropriation of trade secrets case brought by the employees' former employer. The complaining former employer sought both emergency and preliminary injunctive relief. After first successfully arguing against the imposition of emergency relief, Josh guided his clients through extensive discovery and ultimately obtained the complete denial of the preliminary injunction request.

Josh Knapp represented a dental practice in the enforcement of a non-competition agreement and prosecution of tortious interference claims against a former dental associate and his new practice. After initiating both a state court action and professional arbitration proceedings, Josh assisted the client in successfully resolving its claims at mediation.

Josh Knapp represented a major central Pennsylvania health care institution in a premises liability bench trial involving an alleged slip and fall on ice in a parking lot, with damages sought in excess of \$100,000. Despite having to substitute a defense witness at the last minute due to unavailability, Josh helped the client secure a full defense verdict on all claims.

Josh Knapp represented a major health care institution in defense of a premises liability action in Philadelphia County. The case involved an alleged slip and fall on snow on a sidewalk, resulting in a back injury. Josh first successfully argued that the case should be referred from the trial division to mandatory arbitration, then assisted the client in securing a full defense award after the arbitration hearing.

[Justin Tomevi](#) represented the beneficiary of a trust after the trustee misappropriated nearly \$200,000 in trust funds over the course of several years. Justin uncovered that the trustee was making unauthorized loans from the trust to himself and his business and was not repaying those loans. Justin successfully petitioned the Lancaster County Court of Common Pleas- Orphans' Court Division to remove the trustee and hold him in contempt of court. Justin also involved the Lancaster County District Attorney's Office's Elder Abuse Division to conduct a parallel investigation, which resulted in a guilty plea, a restitution order, and the trustee being imprisoned.

[Paul Minnich](#), Jeff Lobach, and [Justin Tomevi](#) represented a nonprofit regional healthcare system in pursuing a real estate tax exemption for one of its hospitals. The local school district challenged the exemption on the basis that the healthcare system did not meet the statutory requirements for a charitable real estate tax exemption under Pennsylvania law. In response, Paul, Jeff, and Justin cited the extensive charitable care provided by the healthcare system as well as its compliance with the highly complex statutory requirements for a charitable exemption. After a two day trial, the York County Court of Common Pleas granted a full exemption for the property and confirmed the system's positive contributions to community

health. The school district has appealed the decision to the Pennsylvania Commonwealth Court. The decision resulted in millions of dollars of tax savings.

**Paul Minnich** and **Justin Tomevi** represented a professional services partnership and real estate partnership in a shareholder departure dispute. The departing shareholder filed an emergency petition for a special relief in the York County Court of Common Pleas, seeking a preliminary injunction related to the financial affairs of the partnerships. Paul and Justin filed preliminary objections, citing several provisions of the shareholder's agreements that were contradictory to the departing shareholder's claims. After a hearing on the preliminary objections, the Court dismissed the petition seeking a preliminary injunction.

**Justin Tomevi** represented the power of attorney agent for the incapacitated individual. The agent had been appointed by his father to watch over his financial affairs and medical care. The agent's sister attempted to have the agent removed by the York County Court of Common Pleas-Orphans' Court division. Justin presented a defense which included exposing the sister's intent to have herself replaced as the agent for her father, wherein she would pay herself significant payments for her services. After an emergency hearing, the Court dismissed the sister's petition and reaffirmed Justin's client as the valid power of attorney agent.

**Justin Tomevi** represented the beneficiaries of a trust for the collection of an inter-family undocumented loan in the Adams County Court of Common Pleas. Justin navigated a complex set of facts and evidentiary issues, including that the initial balance of the loan having been incurred 30 years before and that the only surviving party to the loan with capacity was the debtor himself. The debtor argued that the loan was a gift, instead of a loan. The debtor also filed a cross claim against his ex-wife, who was one of the beneficiaries of the trust, claiming that she was responsible for any loan balance. After a trial, the judge confirmed the existence of the loan and awarded Justin's client a \$72,500 judgment. The judge also dismissed the cross claim against the ex-wife beneficiary, finding that she was not liable under the loan.

**Michael Crocenzi** won a jury trial in Cumberland County for a local radiology group. A former radiologist sued the group for breach of contract and defamation. After three days of testimony, the trial judge dismissed the defamation claim. The jury then decided the radiology group did not breach the employment contract.

**Matthew Hennesy's** real estate investor client had numerous properties within in a townhome community with a homeowners association. The association suspended Matthew's client's voting rights for failing to pay assessments owed by the previous owner. After an injunction hearing and contempt hearing, the court found the association had violated the Pennsylvania Uniform Planned Communities Act in numerous respects, acted in bad faith by suspending voting rights and then violated a court order restoring those voting rights. In a separate but related case, Matthew won a summary judgment for the investor striking down an attempted declaration amendment that limited the amount of homes one person or business could own and finding that the association had no power to suspend the investor's voting rights.

When a fired physician sued a Barley Snyder client for \$2 million in damages alleging age discrimination, [David Freedman](#) successfully convinced the federal trial court to throw the claim out before trial.

[David Freedman](#) became one of the first attorneys in the country to successfully defend against the Trump administration's latest crackdown on H-1B visas. Earlier this summer, U.S. Citizenship and Immigration Services issued a wave of "requests for additional evidence" to entry-level computer programmers seeking H-1B visas. These requests strongly suggested that USCIS was taking a new position that entry-level computer programmers aren't eligible for H-1B visas. David represented an employer seeking to hire an entry-level computer programmer who had received one of these requests for additional evidence. David successfully convinced USCIS that it had overstepped its bounds and didn't have the legal authority to deny H-1B visas for entry-level computer programmers.

Our medical malpractice team, under the leadership of [Lauralee Baker](#), won a more than week-long malpractice trial in Lancaster County. The suit was brought against an addiction specialist who was allegedly responsible for the overdose and death of a 19-year-old receiving methadone treatment. The case involved testimony from experts in addiction medicine, pathology, life expectancy and economics. After several hours of deliberation, the jury found the physician was not negligent nor the cause of the death.

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[Jennifer Craighead Carey](#) significantly limited the damages of a plaintiff against her client in an employment discrimination case when she won a partial summary judgement. The decision came after the judge found the plaintiff had committed bankruptcy fraud.

[Justin Tomevi](#) represented a commercial real estate developer in an appeal involving its attempt to construct private college housing. The commercial real estate developer has obtained final approval of its land development plan, only to see the municipality change the zoning ordinance and join in an appeal of neighboring landowners against the development of the project. After successfully appealing an adverse initial trial court decision to the Commonwealth Court, Justin persuaded the trial court to allow the development to be constructed with minor changes. Based on the evidence presented to the court, the judge also ruled that the municipality acted in bad faith. The neighboring landowners and municipality appealed the trial court's decision to the

Commonwealth Court. After Justin argued before the appellate panel, the decision of the trial court was affirmed.

**Justin Tomevi** represented the guardian of an elderly individual with significant assets. For years, the children of the individual battled over control of their mother's assets by challenging her incapacity finding. After successfully defending the incapacity finding before the orphan's court and the Pennsylvania Superior Court, the children initiated proceedings to have the guardian removed. After several days of proceedings, the orphan's court concluded that the guardian should not be removed.