

## Paul R. Monsees

### Partner

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Paul R. Monsees is a partner and litigation lawyer with Foley & Lardner LLP. He has extensive experience analyzing, litigating and resolving complex commercial disputes including representing clients in matters concerning insurance and reinsurance relationships, employment discrimination and related issues, internal investigations, breaches of fiduciary duty, corporate and law firm successor liability, misappropriation of trade secrets, breach of non-disclosure and non-solicitation agreements, data breach issues, breach of medical practice management contracts, tortious interference with contractual relations and other business torts and in defending private and governmental enforcement actions concerning consumer protection. Paul is a member of the firm's Business Litigation & Dispute Resolution Practice, Insurance & Reinsurance Industry Team, Insurance & Reinsurance Litigation Practice, Labor & Employment Practice and Trade Secret/Noncompete Specialty Practice. He is chair of the firm's Washington, D.C. Litigation Department.

Paul's counseling and litigation experience includes representing insurers and reinsurers in litigation, arbitration and mediation proceedings and he has negotiated strategic business solutions and commutations on behalf of cedents and reinsurers. He has represented clients involving a wide range of issues and parties such as reinsurance pools, including Unicover, offshore captives, brokers, MGU and MGA relationships, quasi-governmental funds and Lloyds syndicates. A representative list of the business and issues presented in these matters includes accident & health, property & casualty, workers comp carve out, medical stop loss and WTC clean-up claims; claims for fraud, misrepresentation and rescission arising out of multiple reinsurance agreements, both treaty and facultative; requests for pre-hearing security; follow the fortunes; underwriting and rating of risks; disputes over audits and claims procedures; and the many and varied issues that arise in running-off books of business. His engagements have included extended arbitration proceedings between cedents and reinsurers, and between insurers and MGAs, Florida rate filing litigation, the pursuit of common account recoveries, coverage under the Florida Birth-Related Neurological Compensation Act, actuarial analysis of reserves for long-tail claims and disputes over the underwriting and pricing of working layer and excess workers' compensation for self-insured groups and captive business.

Paul also represents employers in a broad array of employment issues. His employment practice includes conducting internal investigations of discrimination, harassment and retaliation claims, drafting and enforcing confidentiality and non-competition agreements, investigating data breach incidents, counseling employers concerning hiring, disciplinary action and termination decisions and a variety of other human relations/resources concerns. When resolution cannot be achieved, Paul has litigated employment disputes in federal and state courts and before the EEOC and comparable state employment agencies consistent with the company's business goals and objectives.

Paul was instrumental in developing and leading the firm's litigation training program and has served as a counseling partner to the firm for several years.

## Representative Experience

### Litigation

- Secured \$53 million award in favor of a ceding company in a consolidated action involving 33 reinsurance treaties covering working layer and high excess protection of several books of workers compensation business.
- Successfully settled a multi-million dollar reinsurance dispute on behalf of a ceding company after obtaining an interim arbitration award requiring the reinsurer to post \$13+ million in pre-hearing security.
- Litigated to summary judgment, affirmed in the 2nd Circuit, in favor of an insurer against its reinsurance broker in a commission dispute.
- Represented the seller of a service business and obtaining a plaintiff's jury verdict for breach of the sale agreement and a related employment agreement.
- Litigated to summary judgment on behalf of a defendant law firm in a \$2+ million breach of lease litigation arising out of corporate successor liability claim.
- Conducted an internal investigation regarding allegations of misconduct by foundation executive director and advised board of directors about strategies for resolution;
- Litigated to summary judgment on behalf of an employer in response to Title VII age, race, harassment and retaliation claims.
- Litigated to summary judgment on behalf of an employer accused of race-based harassment and retaliation.
- Litigated employment claims to a defense jury verdict that were brought by a former museum executive director.
- Litigated a federal court sex harassment trial to judgment for the defendant employer;
- Represented a private security contractor engaged for USAID redevelopment projects in Afghanistan in disputes with its Afghan partner.
- Secured reversal on appeal of a \$70+ million tax assessment/classification of real and personal property on behalf of an oil pipeline company, and testifying before the Maryland legislature against proposed legislation seeking to set aside the appellate decision.

## Health Care

- Obtained a \$1.5 million arbitration award on behalf of a physician practice management company in a breach of contract, fraud and conspiracy action.
- Obtained a \$26 million arbitration award for specific and aggregate recovery against a reinsurance pool for the present value of projected lifetime medical services, care and equipment costs for neurologically impaired children.
- Represented a quasi-state injury compensation fund to arbitrate and negotiate a \$10 million commutation of multiple, high risk medical claims that involved projecting lifetime medical needs and costs, establishing medical claim reserves, factoring potential Medicaid reimbursement and other potential collateral sources and determining anticipated life expectancy.
- Litigated claims on behalf of a regional health plan for fraud and successor liability against a tenant professional services provider.
- Represented a medical laboratory that supported a university hospital organ transplant program in litigation against a former employee accused of misappropriating confidential and proprietary data including blood testing protocols and proprietary software.

## Awards and Recognition

- Martindale-Hubbell Peer Review Rated AV® Preeminent™
- *Washington, D.C. Super Lawyers®* (2014 – 2017)

## Affiliations

- Former master in the Thurgood Marshall Inn of Court.

## Community Involvement

- Officer and member of the Executive Committee and Board of Trustees of the National Children's Museum.

## Presentations and Publications

Paul is also a regular contributor to the *Foley Legal News: Employment Law Update*.

- "Using Non-Competes When Greater Employee Responsibility = Greater Protectable Interest," *Labor & Employment Law Perspectives* (June 23, 2014)
- "Does Your 2014 "To Do" List Include Updating Your Company's Trade Secret Protections?" *Labor & Employment Law Perspectives* (January 3, 2014)
- "Score One for Employers – The Supreme Court Narrowly Defines "Supervisor" for Harassment Cases," *Labor & Employment Law Perspectives* (July 1, 2013)
- "Whistleblower Retaliation Claims – Are You Prepared?" *Labor & Employment Law Perspectives* (March 11, 2013)
- "Are You My Supervisor?" *Labor & Employment Law Perspectives* (January 2, 2013)
- "Whistleblower Claims: Are You Covered," *Insurance Law360* (September 27, 2011)

- “The Unclear Definition of Whistleblower Retaliation,” *Employment Law 360* (May 9, 2011)

## Sectors

- Carbon Capture
- Energy
- Energy Transition
- Manufacturing
- Racial Justice & Equity
- Sustainability & Product Stewardship

## Practice Areas

- ADA & FMLA Compliance
- Business Litigation & Dispute Resolution
- Discrimination, Harassment & Retaliation
- Insurance & Reinsurance Litigation
- Labor & Employment
- Litigation
- Trade Associations
- Trade Secret Noncompete Litigation

## Education

- Catholic University, Columbus School of Law (J.D., 1982)
  - Associate Editor, *Catholic University Law Review*
- Lafayette College (B.A., 1978)
  - Government and Law

## Admissions

- Maryland
- District of Columbia
- Several federal trial and appellate courts