HARVEY | KRUSE P.C.
ATTORNEYS & COUNSELORS

Jason R. Mathers

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Jason was made a shareholder at Harvey Kruse, P.C. in 2011 and became a member of the Firm's Board of Directors in 2021. Jason aggressively represents his clients in the various courts in Michigan and out-of-state courts as well.

Jason has achieved numerous victories for his clients on motions for summary disposition and summary judgment and other motion practice. He has also tried cases in both the state and federal courts. Of particular note, Jason was lead defense counsel for a trial in the Wayne County Circuit Court for a wrongful death case that lasted three weeks resulting in a "no cause."

Jason is committed to seeing his cases through to their completion. He approaches each case with the mindset that his work on that case does not end until the matter is resolved. In terms of any appeal, he has written multiple briefs on appeal and has appeared for oral argument in the Michigan Court of Appeals and Sixth Circuit Court of Appeals.

Jason's practice areas include aggressively defending his clients in all types of civil litigation, product liability, construction accidents, insurance coverage, property loss, no fault, third-party auto, and premises liability cases, and others, ranging from the routine matter to highly complex cases and at all levels of exposure. For example, Jason has worked defending against lawsuits brought as class actions for alleged violations of the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227, with class sizes purportedly in the several thousands.

Jason has authored multiple articles in Michigan Lawyers Weekly.

Areas of Practice

- Civil Litigation
- Construction Law
- Insurance Coverage
- No Fault
- Third-Party Auto
- Premises Liability
- Product Liability
- Bankruptcy
- Employment Litigation
- Class/Collective Actions
- Appellate Practice

Education

- Wayne State University Law School (J.D. *cum laude*, 2003)
- Wayne State University (B.A., 1999)

Bar Admissions

- State Bar of Michigan (2003)
- U.S. District Court for the Eastern District of Michigan (2003)
- U.S. Bankruptcy Court for the Eastern District of Michigan (2007)
- U.S. Bankruptcy Court for the Western District of Michigan (2007)
- U.S. District Court for the Western District of Michigan (2009)
- Sixth Circuit Court of Appeals (2013)

Employment

- Board of Directors at Harvey Kruse, P.C., 2021 - Present
- Shareholder at Harvey Kruse, P.C., 2011-Present
- Associate Attorney at Harvey Kruse, P.C., 2003-2011)

Publications and Speeches

- "When a deal is not a deal? Law does not allow a person to waive rights to overtime pay," article published in Dec 12, 2012 edition of Michigan Lawyers Weekly
- "No cause" in Wrongful Death trial; reported in Michigan Lawyers Weekly in 2014
- Various client presentations re: Michigan No-Fault Act, FLSA wage and overtimes laws, employment claims

Honors & Awards

- DBusiness "Top Lawyers in Metro Detroit" 2024
- Michigan Super Lawyers - 2024
- Michigan Super Lawyers – "Rising Star" 2014

Organizations

- State Bar of Michigan
- Michigan Defense Trial Counsel

Representative Clients

- AMaxum Specialty Insurance Group
- Meemic Insurance Company
- Michael Enterprises, Inc.
- National Casualty Insurance Company
- National General Insurance Company
- Nationwide Insurance Company
- Robertson Fellows Creek, LLC
- Scottsdale Insurance Company
- Strawberry Fields, Inc.
- AmTrust Insurance Company
- Amerisure Insurance Company
- State Automobile Property and Casualty Insurance Company
- The Auto Club Group
- Beline Transportation Service, LLC
- Liberty Mutual Insurance
- PrimeOne Insurance
- Kucht, LLC

Representative Trial & Appellate Results

- ***Jesse Davis v. Ace Transportation, et al.,* Wayne County Circuit Court (2024)** – this was a case for personal injuries arising out of a motor vehicle accident involving non-emergency medical transportation (NEMT.) The plaintiff who was a paraplegic since 2002 was injured when the transportation van he was riding in on his way to physical therapy stopped abruptly. The wheelchair was fastened to the van, but Plaintiff was not additionally secured to his wheelchair. Plaintiff was thrown out of his wheelchair, fracturing both legs in the fall. Plaintiff was hospitalized for a period of several weeks following the motor vehicle accident, during COVID. Plaintiff sought damages in excess of $750,000. Plaintiff alleged various theories against the defendants, including negligence in the operation of the motor vehicle, failure to utilize or offer him a shoulder restraint during transportation, vicarious liability, negligent hiring, and negligent entrustment, et al. We defended all three of the defendants in the lawsuit – i.e. the van driver, NEMT company (employer) and ModivCare (broker of NEMT services). Of the various motions for summary disposition that were filed, the trial court granted summary disposition only on the issue of negligence in the operation of the vehicle. We then filed for and were granted interlocutory appeal as to the remaining issues and theories of liability. Plaintiff cross-appealed on the issue of negligent operation of a motor vehicle. The Court of Appeals ruled in favor of defendants, on all issues, including that there was no evidence of any negligence in the operation of the motor vehicle, that Michigan does not recognize a claim for negligent hiring, and that pursuant to Michigan case law a driver of NEMT does not owe any duty to use or offer a seatbelt to a handicap passenger unless there is a written policy in place requiring this be done of all able bodied and disabled passengers alike. On that final issue, the Court agreed that a different rule of law would operate to discriminate against the disabled passenger in violation of the ADA. This was an important decision for our insurance clients and their insureds as it makes clear that Seldon v. SMART, 297 Mich App 427 (2012) applies to both public (e.g. a SMART bus) and private transportation companies.
- ***LINT Chiropractic (Myeshia Edwards) v. Amerisure,* 46th District Court (2024)** – This was a provider lawsuit for PIP benefits. We filled a motion for summary disposition arguing that plaintiff stands in the shoes of its assignor / patient and that plaintiff provider had failed to raise a genuine issue of fact as to whether its patient was even a passenger on the party bus for the accident for April 2022, or that she was otherwise involved in any accident involving an Amerisure insured vehicle. Prior to the hearing, plaintiff agreed to a voluntary dismissal of the claim against Amerisure, with prejudice.
- ***ZMC Pharmacy, LLC (Ahmed Kasoka) v. Milford Casualty Insurance Company, et al.***, Oakland County Circuit Court (2024) – This was a No-Fault case that involved a priority dispute among the two codefendant insurance companies. Initially, we successfully moved to set aside the default that had been entered against our insurance client, Milford Casualty. Following a failed facilitation, we filed a Motion for Summary Disposition arguing that there was no PIP coverage under the Milford Casualty policy pursuant to recent 2019 amendments to the No Fault Act and the policy terms. This resulted in a voluntary dismissal of our client.
- ***Crane 1 Services, Inc. v. William Janssen***, Eastern District of Mich (2023) – This was a case involving allegations that our client, a sales area supervisor, violated his former employer's non-solicitation and non-compete clauses. The damages alleged were in excess of $1 million dollars. Initially, we were successful in having the case transferred out of the Southern District of Ohio Court for a lack of contacts with Ohio and move the case into a new venue in the Eastern District of Michigan to gain a homefield advantage. Next, we continued to advance arguments opposing the plaintiff's requests for a Temporary Restraining Order and later Preliminary Injunction, arguing that plaintiff had not demonstrated it was likely to prevail on the merits, that money damages were sufficient, and later that the passage of time had rendered many of the plaintiff's claims moot and plaintiff was improperly attempting to extend the term of the non-solicitation and non-compete agreements beyond the agreed upon 1-year term. This allowed the client to continue in his role in sales with his new employer. Additionally, we filed a counterclaim on behalf of our client for additional unpaid commissions during his employment with Crane 1. Finally, our discovery efforts successfully disproved to the plaintiff's satisfaction that the allegations of improper conduct were unsupported in evidence, and similarly that any damages it had were speculative and unsupported in evidence. Collectively, the defense efforts in this case ultimately resulted in a voluntary dismissal of our client without any injunctive relief or monetary damages.

- ***The Cincinnati Insurance Company (Jack World Business, LLC) v. Braun Construction Group***, Oakland County Circuit Court (2022) – This was a subrogation case involving claims of negligence and breach of contract, arising out of two distinct events in 2018 and 2019 where the building's fire suppression system froze, and pipes burst, resulting in extensive water damage and property loss totaling $310,000. Additional damages in excess of $1 million were also claimed by the property owner for delays, construction, issues, etc. These other claims were litigated in a related arbitration proceeding, which we also participated in on behalf of the insured. The defendants were the various parties involved in the new construction project, including our client and Amerisure's insured, the general contractor. Through discovery we established that our client was not guilty of any negligence or breach of any contract term. Our client contributed zero in the arbitration and was also dismissed from the Oakland County lawsuit with prejudice.
- ***Melinda Howell v. State Auto Property and Casualty Insurance Company***, (Oakland County Circuit Court (2022) – This was a No-Fault case. We filed a motion for summary disposition arguing that the insurance client was not the highest priority insurer pursuant to recent 2019 amendments to the No Fault Act. The plaintiff had moved out of her father's home prior to the accident and was not covered as a household relative. The trial court denied the motion finding issues of fact with regards to estoppel based on prior voluntary payments. The voluntary payments were the result of the dispute between the DIFS and MAIPF as to how to treat non-reformed policies after the amendments. Following the trial court's ruling we were able to leverage an appeal and persuade the MAIPF that it was the highest priority insurer and obtain a voluntary dismissal of our client in this main case and the related service provider lawsuits.
- ***Leytiana Cooper v Great Oaks Landscape***, Oakland County Circuit, (2021) – This case involved claims of vehicle owner liability. The case resolved quickly. Plaintiff counsel agreed to a voluntary dismissal on the defense argument that the motor vehicle had been stolen from its employee's home on the night of the accident, and that the vehicle was thus being driven without the Amerisure Insured's permission or consent. Plaintiff was also seemingly motivated in this case by the alternative claim of uninsured motorist benefits against the codefendant.
- ***Farmers Insurance Exchange (Janice Lewis) v. Amerisure***, 46th District Court (2020) – This was a claim involving PIP benefits. Specifically, Farmers sought to recover the $16,679.53 that it had paid as the assigned claims insurer, alleging that Amerisure was in a higher order of priority. After discovery, Amerisure filed a motion for summary disposition arguing that the alleged vehicle involved, a "GM Hummer", was not used in the insured's business operations; that the vehicle was not covered under the Amerisure policy, which was written for the transportation business; and so Amerisure was not in the order of priority. Plaintiff agreed to a voluntary dismissal of the lawsuit and all claims against Amerisure.
- ***Truesdell v. Amerisure Mutual Ins. Co., et al.***, Wayne County Circuit Court (2019) – This case was defended in the circuit court and also a separate action was filed on behalf of Amerisure in the Workers Compensation Bureau. One issue involved whether the defendant driver was an independent contractor who was not entitled to workers compensation benefits. Through discovery we were able to establish the entitlement to workers compensation benefits and recover $39,000 for our client from the workers compensation carrier. We also filed a motion for summary disposition on the UM/UIM claim, arguing that plaintiff was more than 50% responsible for the motor vehicle accident. The trial court granted this motion for summary disposition.
- ***Nicholson v City Steel, et al.***, Wayne County Circuit Court (2019) – This was a third-party auto negligence case involving a passenger on a bus. The video from the bus showed plaintiff being thrown about after the side-impact. The video established the defendant's negligence in causing the accident. We filed a motion for summary disposition arguing no serious impairment based on the plaintiff's preexisting medical and social security disability and physical limitations for years before the accident. Plaintiff responded with a doctor's affidavit of a serious neurological injury. We defeated this effort arguing that the conclusory statements in the doctor's affidavit did not create an issue of fact. The Court granted our motion for summary disposition.
- ***Allwood and Corbin v. Milford Insurance Company***, Washtenaw County Circuit Court (2019) – These related PIP cases involved catastrophic claims for two minor plaintiffs who were sisters. We defended the cases arguing that under the case law the subject motor vehicle had been sold at a date prior to the accident, removing the client from the line of priority. The trial court granted our motion for summary disposition.

- ***Brooks v. Jeffersonian Houze***, Wayne County Circuit Court (2019) – This was a case involving a tenant's claims against the apartment building he had lived in for more than two decades for violation of the Elliot Larsen Civil Rights Act, Persons with Disabilities Civil Rights Act, Renter's Rights laws and other statutory claims. We filed a motion for summary disposition on behalf of the former owner of the building, arguing the actions of the apartment complex during its management complied with the law and that other claims were barred by various statutes of limitations. The case was resolved through a global settlement for only a fraction of the $185,000 damages alleged.
- ***Allstate (James Seese) v. DVM Utilities, Inc, et al.***, pre-suit (2019) – This case involved claims for property damage following a fire loss. The fire in the home started while the family's Apple device was being charged. The claimant, through its expert, advanced various early working theories as to the cause of the fire. One of which involved Amerisure's insured who had recently done utility digging work at the property. We retained an expert and advanced the defense that the cause and origin of the fire was not the insured's work. Allstate agreed to abandon any claim against the Amerisure insured. The estimated damages for the claim were in excess of $200,000.
- ***David Espinoza v. DPG-Homes of Michigan***, Wayne County Circuit Court (2018) – This was a construction accident case involving claims of liability against the insured general contractor. We argued in a motion for summary disposition that this was not a "common work area" and plaintiff agreed to a voluntary dismissal of all claims. The injuries required two surgeries and the workers compensation lien was in excess of $60,000.
- ***Krassimira Jeffrey v. Amerisure***, Washtenaw County Circuit (2018)- This was a PIP case. The trial court granted defendant's second motion to dismiss based on the plaintiff's continued discovery failures, which included her failure to timely answer discovery, failure to appear at IME and failure to appear for deposition. Plaintiff was allegedly stuck in Bulgaria. Most significantly, plaintiff's prolonged discovery failures violated the Court's prior discovery order, leading the Court to reject the pleas of plaintiff for leniency. During the litigation, we also filed a motion for good faith payment under MCL 500.3112, which was likewise granted by the Court to discharge liability for the plaintiff's treatment at Detroit Receiving Hospital and thus thwarted the provider from bringing its claims against Amerisure.
- ***Livonia Care Management (Pamela Capers) v Amerisure***, 19th District Court (2018) – This was a provider lawsuit for PIP benefits. We filed a series of motions for summary disposition, resulting in the case being dismissed for fraud and because the provider did not have a valid assignment of rights.
- ***Doelle v. Olde World Canterbury***, Michigan Court of Appeals (2018) – This was a personal injury case where the plaintiff sustained serious injuries while a passenger on the Thomas the Train ride during an event. We successfully defended this case on appeal, arguing that the premises owner was not responsible for the alleged negligence of its subcontractors and that the tortfeasor was not an agent of the premises owner.
- ***Smith v. Starboard-Great Lakes***, Michigan Court of Appeals (2018) – This was a slip and fall case that we successfully defended on appeal arguing that that the condition was open and obvious based on the indicia of snow and ice in the surrounding areas of the parking lot and that the weather records and expert meteorologist's affidavit offered by the plaintiff did not establish notice of any ice hazard.
- ***Allied Property v. Menser, et al.***, Wayne County Circuit Court (2013) – We filed a declaratory action seeking a determination of no coverage relative to ongoing litigation involving a minor who was injured in a pedestrian/motor vehicle accident. We argued that coverage was barred by the policy exclusion that the driver did not possess a reasonable expectation that he was entitled to use the vehicle when he did not have a valid driver's license. The court granted summary disposition. A claim of appeal was filed but later withdrawn.
- ***Hamdi v. National Casualty***, Wayne County Circuit Court (2012), Oakland County Circuit Court (2012), Michigan Court of Appeals (2013) – The plaintiff was injured when his semi-truck rolled over on an Arizona highway. Plaintiff was airlifted from the scene. The plaintiff brought suit for Michigan PIP benefits against both Citizens Insurance and National Casualty Insurance. We successfully argued that the policy written by National Casualty did not cover the loss as the tractor was not added to the policy until after the date of loss. The Wayne County Court granted summary disposition for National Casualty, finding Citizens was the highest priority insurer. Subsequently, Citizens filed a second lawsuit, adding claims of fraud and negligence, only this time in Oakland County. We moved for summary disposition based on res

judicata and collateral estoppel and for an award of sanctions pursuant to MCR 2.114 for the frivolous filing. The Oakland County Court granted the motion and awarded National Casualty its attorney fees and costs.

- ***Estate of Robert Whitta v. Wayne Industries***, Wayne County Circuit Court (2012) – The estate of the deceased alleged that Whitta, a truck driver, had been crushed while at the defendant's steel warehouse facility. The plaintiff's case was premised on an autopsy report that the cause of death was a crush injury and additional expert opinions concerning the warehouse operations and injury patterns. We defended with witness testimony and competing expert medical opinions that the autopsy was flawed and that what was observed in terms of fractured ribs and other internal organ injuries could have been caused by the hundreds of CPR chest compressions performed by workers, EMS and hospital staff. The trial concluded after three weeks resulting in a jury verdict of "No Cause" of action.
- ***Tompkins v. Crown Corr, Inc., et al.***, United States District Court for the Eastern District of Michigan Southern Division (2010), Sixth Circuit Court of Appeals (2012) – The plaintiff alleged a slip and fall on standing water at the newly constructed McNamara Terminal at Detroit Metropolitan Airport. We obtained summary disposition at the state court and later summary judgment in the federal court. We successfully argued that the lawsuit was barred by the statute of repose and that subsequent work efforts by Crown Corr, Inc., to correct a leaking roof were a continuation of the original work on the project. The Sixth Circuit affirmed.
- ***Federal Insurance Company v. Midwest Refrigeration Inc., et al.***, Wayne County Circuit Court (2003), Michigan Court of Appeals (2007) – This was a products liability case involving a building explosion after an ammonia cooling system failed. We successfully defended the case arguing the economic loss doctrine applied to impose a four-year statute of limitations under the UCC. The Michigan Court of Appeals affirmed summary disposition.
- ***Salt v Bennigan's***, Ingham County Circuit Court (2005), Michigan Supreme Court (2007) – We successfully defended this dramshop action involving a head-on collision and resulting death. We argued that discovery did not support the elements of an illegal sale. The trial court denied the motion. However, on appeal to the Michigan Court of Appeal and then to the Michigan Supreme Court, the decision was reversed, and summary disposition granted.
- ***White v. Mohawk Carpet Corporation***, Oakland County Circuit Court (2005) – This was a products liability case. We successfully defended the case and obtained summary disposition, arguing that the retailer and ultimate user of the subject product were sophisticated users of the product.
- ***Carbott v. Polyvision Corporation***, Wayne County Circuit Court (2005) – This was a products liability case. We successfully defended the case on the basis that our client did not have successor liability for any of the alleged products of the company it had purchased years earlier pursuant to an asset only purchase agreement; and that the plaintiff's claims were premised on speculation and conjecture. The trial court granted summary disposition on all claims.
- ***Yak v UPS***, United States District Court for the Eastern District of Michigan Southern Division (2003), Sixth Circuit Court of Appeals (2005) – the three named plaintiffs, all former UPS workers, filed suit in federal court in response to having their worker's compensation benefits cutoff. The plaintiffs alleged that their former employer and its workers compensation carrier had conspired to deny them benefits in violation of the RICO laws. We successfully argued reverse-preemption; "law of the circuit"; failure to show detrimental reliance; and failure to plead with particularity. On appeal, the Sixth Circuit affirmed that decision. The decision became final when the U.S. Supreme Court denied the plaintiffs petition for writ of certiorari.
- Multiple additional wins on summary disposition for premises liability cases involving snow and ice and other trip hazards.
- Dozens of highly favorable settlements, voluntary dismissals and other positive results, reached in all types of personal injury and property damage cases, including cases involving principal/agency relationships.