

## Services

### Professional Liability and Discipline

#### Practice Contact

Robert N. Webner

#### Attorneys

Kent A. Britt

Thomas H. Fusonie

Rick W. Grady

Jolie N. Havens

David F. Hine

John J. Kulewicz

Theodore P. Mattis

William G. Porter

Steven R. Rech

Eric W. Richardson

Mitchell A. Tobias

Rosemary D. Welsh

We have successfully defended professional clients in lawsuits and in disciplinary proceedings and bring significant experience, sensitivity, creativity and dedication to our clients to such engagements. We know that professional clients are not a “one size fits all”. They may differ materially in their reaction to and tolerance for reputational risks, media attention, potential litigation, cost and other considerations, given the distinct cultures of their firms and the personalities and circumstances of the individuals who are involved. Vorys’ attorneys work shoulder-to-shoulder with our professional clients to provide effective, client-focused services that are tailored to the specific business models and interests of those clients. Our goals in such representations are to help clients through what is often a difficult personal process, to free up the client professionals to do what they do best – which is practice their profession – and to achieve the best possible result for our clients given their particular situation and interests.

#### Who We Represent

Attorneys in Vorys’ professional liability defense practice represent a variety of professionals, including accountants, architects, attorneys and law firms, brokers and financial planners, engineers, homeowners associations, insurers and insurance brokers, physicians, nurses social workers, hospitals, and other health care professionals, property management and real estate agencies and real estate agents in professional malpractice and tort litigation and in disciplinary proceedings and grievances.

#### What We Do

Vorys provides counseling and advice to help our professional clients potentially avoid ethical pitfalls and litigation with their clients and others. **In addition, we proudly represent our professional clients in the full range of litigation:**

- Malpractice claims
- Negligence claims
- Conflict of interest claims

- Breach of contract claims
- Fair Debt Collection claims
- Breach of fiduciary duty claims
- Other common law claims

We have also defended securities and financial clients in Securities and Exchange Commission (SEC) investigations and in actions involving alleged violation of the Racketeer Influenced and Corrupt Organizations Act (RICO), federal securities laws and other similar state laws.

### Accountants

Vorys regularly represents public accounting firms, the issuers of financial statements and individuals with responsibility for financial reporting in lawsuits involving accounting and auditing issues. Our practice in this area encompasses federal and state court actions in Ohio, Maryland, the District of Columbia, Virginia, Texas, Pennsylvania and California. Vorys has experience defending class actions and derivative cases. In these engagements, our attorneys have helped to create significant precedents with respect to the:

- Scope of accountants' liability to third parties
- Statute of limitations for accountants' liability claims
- Applicability of comparative negligence principles and contributory negligence to accounting services
- Pleading standards governing federal securities fraud claims against auditors
- Extent of gatekeeper liability under "fraud created the market" claims
- Various "fraud-on-the-market" issues

We also represent accountants and financial professionals in investigations by the SEC and state agencies. Specific accounting and auditing issues we have handled in recent representations include:

- Accounting for acquisitions
- Revenue recognition
- Insurance accounting
- Failure to detect errors and fraud
- Accounting for income taxes
- Asset impairment
- Contingent liabilities
- Restatement of financial statements
- Financial statement disclosure issues

## Architects/Engineers

Vorys represents many design firms and architect and engineering professionals, from some of the highest-ranked *Engineering News Record* firms to recent start-ups and individual practitioners. On public and private projects, Vorys has successfully defended and resolved claims of personal injury, property damage, and purely economic loss due to alleged design defects, errors and omissions, permitting failures, and excessive control.

Our attorneys help design professionals mitigate risks and avoid future claims in the design, design development, construction specifications, contract administration, and construction management roles, and frequently are asked to lecture on architect/engineer liability. We also counsel companies and individuals facing licensing issues, investigations and disciplinary charges brought by state licensing boards such as the Ohio Engineers and Surveyors Board. Read more [here](#).

## Attorneys

We represent and advise attorneys and law firms, large and small, in all areas of claims and risk management. Our work in this area includes:

- Providing analysis and proactive recommendations with respect to potential claims
- Assisting in the creation and implementation of claims avoidance policies
- Providing advice on insurance coverage
- Defending lawsuits and attorney disciplinary proceedings
- Counseling on law firm employment issues
- Counseling law firms on ethical issues
- Helping law firms to develop communication strategies in connection with claims that have attracted media attention

We have experience handling complex and difficult professional liability claims in a fashion that serves the best interests of our clients. We listen to our clients, are guided by their concerns and goals, resist taking a “one size fits all” approach to defending such claims, and pride ourselves on our focus on responsiveness and client service. We have defended professionals in litigation involving specialized areas such as patent, medical malpractice, estate planning, and business and commercial transactions. Because our firm has a diverse practice, we have resources from those other practices to enhance our approach to litigation and disciplinary proceedings specific to those specialized areas.

We bring decades of detailed knowledge and experience from our regular practice before the state and federal courts in the jurisdictions in which we practice. Our lawyers enjoy reputations for excellence and ethical representation with the state and federal judges in our jurisdictions and with our clients and colleagues because of our dedication, preparation, skills, and integrity. We are active in our local, state, and national organizations for lawyers, including the American Bar Association (ABA) and the Inns of Court. Many of our lawyers have been rated by Martindale-Hubbell as “AV Preeminent.”

We have tried legal malpractice cases in California, Washington, D.C., Maryland, New York, Ohio, Virginia and Washington, among other locations, and we have represented law firm clients in federal and state courts throughout the country.

### Medical Malpractice

Our lawyers defend medical malpractice and health care lawsuits in courts throughout Ohio, Maryland, the District of Columbia and Virginia. We regularly represent hospitals and individual physicians in jury trials addressing complex medical issues and treatment, including cutting edge medical issues involving genetics and medical technology.

In addition, our lawyers advise hospitals, medical groups, nurses, physicians, social workers and clinics concerning issues of:

- Risk management
- Loss prevention
- Reporting under the federal National Practitioner Data Bank
- *Ad hoc* hearing presentations
- Reviewing staff privileges
- The requirements of the Health Care Quality Improvement Act

We also have counseled hospital and medical group quality assurance committees in the collection, use and presentation of quality assurance statistical information. Read more [here](#).

### Professional Licensing and Discipline

For physicians and other health care professionals, professional licensing and disciplinary matters may arise without significant advance notice.

We represent clients through accusations by patients, colleagues or others, as a result of normal oversight activities, or as a collateral consequence of medical malpractice litigation, credentialing disputes, fiscal audits by governmental and private insurers, health care fraud and abuse investigations or criminal prosecutions.

Our extensive experience in this area allows us to respond to all health care professional licensing board matters promptly and efficiently. Our lawyers have represented clients before health care professional licensing boards in a wide variety of matters, ranging from full-blown litigation of disciplinary actions attempting to revoke a practitioner's professional license or seeking to impose other sanctions to assistance in solving administrative problems that may pose risks to a practitioner's ability to obtain, or retain, his license.

All such matters are extremely important and must be handled carefully, prudently, and with discretion and a sense of perspective. Our lawyers provide creative and flexible representation tailored to our client's specific immediate and long-term interests.

## News

3.28.2022

Whelihan Featured in Law360 Story Titled "Vorys Adds Professional Liability Pro From Jordan Coyne"

3.14.2022

Deborah Murrell Whelihan, Recognized Professional Liability Attorney, Joins Vorys in Washington, D.C.

News, 4.25.2014

Vorys Washington, D.C. Lawyers Included on 2014 Super Lawyers and Rising Stars List

News, 2.17.2014

Vorys Partner Quoted in *Law360* Story Titled "Sidley's Blown Deadline Shows Firms Need Careful Monitoring"

News, 11.30.2007

Vorys Attorneys Among the Best in Washington

## Publications

Authored article, *ABA/BNA Lawyers' Manual on Professional Conduct*, 10.8.2015

Embrace Inevitable Change in Legal Services Profession, Conference Speakers Say

Authored article, *American Bar Association Section of Litigation Professional Liability E-Newsletter*, Spring 2013

*Gunn v. Minton*: Supreme Court Removes Federal Court Welcome Mat

Authored article, *The Law of Lawyer's Liability*, 6.2012

District of Columbia Chapter Author

Authored article, *ABA Journal*, 12.1.2009

Practice Pitfalls: When it comes to potential ethics or malpractice hazards, watch where you're going, or look out below

## Speaking Engagements

Event, 2.22.2023

The Ohio State University Moritz College of Law Webinar

10.29.2020

Ethical Issues in Cyberspace for the Ohio Transportation Engineering Conference 2020

4.30.2020

The New Ethics of Working Remotely: Cybersecurity and Other Risks

10.10.2015

2015 DRI Annual Meeting

6.19.2015

Ethics and Joint Representation

Hosted by the Professional Education Broadcast Network

5.26.2015

Ethics and Client Money: Trust Funds, Expenses, Setoffs & More

Hosted by the Professional Education Broadcast Network

5.26.2011

Avoiding and Defending Medical Malpractice Claims

2011 Health Care Teleseminar Series