

# RAWLE'S REPORTS

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## 2018 PENNSYLVANIA RISING STARS

Rawle & Henderson LLP is pleased to announce that **David R. Chludzinski**, **Christina A. Gonzales** and **Kimberly A. House** have been selected as **2018 Pennsylvania Rising Stars** by *Super Lawyers*, a rating service of Thomson Reuters. Rising Stars are the top 2.5 percent of attorneys in Pennsylvania who are 40 years old and younger or have been in practice for 10 years or less.



**David R. Chludzinski** is Of Counsel to the firm in our Pittsburgh office. He concentrates his practice on the defense of **commercial motor vehicle** companies and their insurers. David earned his J.D. from the Dickinson School of Law at Penn State University. While attending law school, he was a Comments Editor on the *International Law Review* and he received the C.A.L.I. Award for advanced pre-trial advocacy. He earned his B.A., *cum laude*, from Boston College. David is admitted to practice in Pennsylvania and in the U.S. District Courts for the Eastern, Middle and Western Districts of Pennsylvania. He served a three-year term on the Allegheny County Bar Association's Civil Litigation Section Council from 2015 to 2018 and has been re-elected to serve a second term from 2018 to 2021. He is a member of the Trucking Industry Defense Association and the Pennsylvania Motor Truck Association. David has been recognized as a Pennsylvania Rising Star from 2012 to 2018.

*David can be reached directly at: (412) 261-5738 • [dchludzinski@rawle.com](mailto:dchludzinski@rawle.com)*



**Christina A. Gonzales** is an associate in our Philadelphia office. She concentrates her practice on environmental, toxic and **mass tort litigation** matters. Christina earned her J.D. from the evening division of the Widener University School of Law, Wilmington, Delaware, in 2008. While attending law school, she worked as a paralegal for a criminal and civil defense firm in Philadelphia from 2004 to 2008. In the Summer of 2007, she served as a legal intern for a law firm in Guatemala City, Guatemala. She earned a B.A. degree in Spanish Literature and Sociology from New York University in 2000. Christina participated in New York University's Study Abroad Program in Madrid, Spain, in the Spring of 1999. She is proficient in Spanish. Christina is admitted to practice in Pennsylvania and New Jersey. She is an active member of the Defense Research Institute. She was also selected as a Pennsylvania Rising Star in 2017.

*Christina can be reached directly at: (215) 575-4287 • [cgonzales@rawle.com](mailto:cgonzales@rawle.com)*



**Kimberly A. House**, an associate in our Philadelphia office, focuses her practice on the defense of **catastrophic loss** matters, including product liability cases, construction and industrial accidents, and premises liability. She also represents building product manufacturers and suppliers in construction defect cases. Kim earned her J.D. from Wake Forest School of Law in 2008. She was a Student Trial Bar Member and co-chaired the Zeliff Trial Competition in 2008. She earned her B.A., *cum laude*, in Political Science from Virginia Polytechnic Institute and State University in 2004. Kim is admitted in Pennsylvania, New Jersey, North Carolina and South Carolina. She was also selected as a Rising Star in 2016 and 2017.

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# PENNSYLVANIA

## PREMISES LIABILITY

### Summary Judgment Granted in Slip and Fall Based on “Hills and Ridges” Doctrine

The Philadelphia County Court of Common Pleas entered Summary Judgment in favor of an apartment complex and its management company represented by Rawle & Henderson LLP. The facts of the premises liability case raised issues directly involving the legal defense known as the “Hills and Ridges” doctrine.

Plaintiff lived with his father in an apartment complex located in Lansdale, Pennsylvania. He alleged that, at 5:00 in the morning on January 12, 2015, he left his apartment intending to go to a medical appointment but, upon leaving the building, he slipped on ice on the steps located outside his apartment building and fell down multiple steps striking the back of his head. Plaintiff filed a civil negligence suit against the apartment complex and its management company based on premises liability.

Based on our initial investigation, we determined that the case was defensible under the “Hills and Ridges” doctrine. In Pennsylvania, the “Hills and Ridges” doctrine protects an owner or occupier of land from liability for general slippery conditions resulting from ice or snow where the owner has not permitted the ice and snow to unreasonably accumulate in ridges or elevations. With this doctrine, the Court recognized that slippery conditions in the winter are a natural consequence of our climate.

Accordingly, “[t]o require that one’s walks be always free of ice and snow would be to impose an impossible burden in view of the climatic conditions in the hemisphere...the only duty upon the property owner...is to act within a reasonable time after notice to remove it when it is in a dangerous condition.” See *Harvey v. Rouse Chamberlin, Ltd.*, 2006 PA Super 130, P9 (Pa. Super. Ct. 2006)(citing *Morin v. Traveler’s Rest Motel, Inc.*, 704 A.2d 1085, 1087 (Pa. Super. 1997), *appeal denied*, 555 Pa. 708, 723 A.2d 1025 (1998)).

Our clients kept records which showed their winter weather

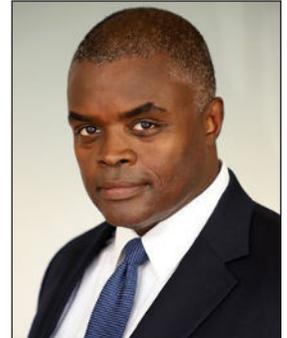
property maintenance activities and the weather. From those records, we learned that the weather conditions that morning consisted of sleet, freezing rain and ice.

We then used discovery to build on that information. In addition to Plaintiff, we deposed Plaintiff’s father. The father testified that freezing rain began falling the night before and was still falling when the accident allegedly occurred. That testimony supported our clients’ records and our defense under “Hills and Ridges.”

To bolster the testimony and our defense, we retained a meteorologist, James Bria, to determine the weather at the time of the alleged incident. Bria’s research revealed that rain, freezing rain and sleet began falling around 11:35 p.m. on the night before the accident and continued to fall through approximately 12:25-12:50 p.m. on the date of the accident.

We then filed a Motion for Summary Judgment relying on the deposition testimony and the expert report. We argued that under the “Hills and Ridges” doctrine, our clients’ only duty was to act within a reasonable time after notice to remove snow and ice when it was in a dangerous condition. Using precedent, we pointed out that the time of day that the accident occurred did not warrant a finding that our clients failed to act within a reasonable time given the timing of the precipitation.

In addition, we cited recent case law for the proposition that a landowner does not have a duty to pre-treat for icy conditions and, moreover, a property owner is not required to treat for snow and ice while the winter precipitation is taking place. (Cf., *Collins v. Phila. Suburban Dev. Corp.*, 2018 PA Super 17.) Here, the winter precipitation that caused the slippery



**Nigel A. Greene**

conditions was ongoing and, as there is no duty to pre-treat walkways for ice, no liability can attach to our clients based on a claim of failure to pre-treat or on a claim of failure to remove the ice during the precipitation which was causing it.

The Honorable Paula Patrick of the Philadelphia County Court of Common Pleas granted the Motion in favor of our clients and dismissed the suit. The decision confirmed that the "Hills and Ridges" doctrine remains a viable defense.

**Nigel A. Greene** is a partner in our Philadelphia office. He focuses his practice on the defense of commercial motor vehicle companies and their insurers, municipalities, commercial general liability, and premises liability matters. In addition, he serves as an arbitrator in Philadelphia County. He is admitted to practice in the state courts of Pennsylvania, the U.S. District Courts for the Eastern and Middle Districts of Pennsylvania and the U.S. Court of Appeals for the Third Circuit. He received his J.D. from Georgetown University Law Center in 1994 and his B.A. from the Virginia Polytechnic and State University in 1989. He currently serves as Vice-Chair of the ABA Tort Trial and Insurance Practice Section (TIPS) Commercial Transportation Litigation General Committee. This is the third one-year term that Nigel has served in this position. He is a member of the American Bar Association and the Trucking Industry Defense Association.

*Nigel can be reached directly at: (215) 575-4278 • [ngreene@rawle.com](mailto:ngreene@rawle.com)*

## OF COUNSEL

Rawle & Henderson LLP is pleased to announce that **Brian Lowenberg** has joined our **Philadelphia** office as Of Counsel to the Firm. He concentrates his practice on **environmental, mass and toxic torts**, including cases involving talc, cosmetic powder, baby powder, asbestos, benzene, coal, fuel components, aromatic hydrocarbons, pesticides, MTBE, underground storage tanks, pollutant discharge compliance, groundwater contamination, and allegations involving natural resource damages (NRD) brought by states against petrochemical companies and refiners. In addition, Brian represents clients in the areas of product liability, premises liability, catastrophic loss, insurance coverage, commercial transactions, enforcement of arbitration clauses, and the defense of consumer fraud claims on behalf of national digital and print media companies. Brian also assists companies in litigation involving the Jones Act, general maritime law, and the briefing of special appellate matters.



**Brian Lowenberg**

Brian earned his J.D. from the University of Houston Law Center in 2004. While attending law school, he was the Casenotes and Comments Editor of the *Houston Journal of International Law*. He served as a justice on the University Honor Court and taught at the law school's Legal Research and Writing Clinic. During his first year of law school, Brian won the Paust Excellence in Writing Award and was published in the *Defense Counsel Journal* in April 2003. He studied international law and corporate governance at the Université de Genève in the Summer of 2002 as part of Duke University's International Law program and was later published on the subject of international law in 2013. He interned for the Honorable Marcia A. Crone in the Southern District of Texas and was also an intern for the United States Senate dealing in legislative and legal affairs.

Brian earned his B.A. in Political Science and Sociology from Trinity University in San Antonio, Texas, in 2001. He was on the Dean's List and was a member of the Lacrosse Team. He was a member of the Student Court and the University (appellate) Court. He also served as a volunteer at the Bexar County Battered Women's Shelter.

Brian is admitted to practice in Pennsylvania, New Jersey, New York, and Texas, including related federal districts, and the Supreme Court of the United States. In 2010, he was appointed to the Pennsylvania Bar Association's In-House Counsel Committee and often speaks at the Business Law Institute in Philadelphia, PA. He is a certified arbitrator for the Better Business Bureau. In 2018, he was appointed as a delegate to the French American Chamber of Commerce.

Prior to joining Rawle & Henderson LLP, Brian was an attorney in the Philadelphia office of a large corporate defense law firm.

*Brian can be reached directly at: (215) 575-4271 • [blowenberg@rawle.com](mailto:blowenberg@rawle.com)*

## ABA TIPS

**Zachary M. Rubinich**, a partner in our Philadelphia office, was appointed the **Chair of the ABA's Tort Trial and Insurance Practice (TIPS) Workers' Compensation and Employers' Liability Law Committee** for 2018-2019. He was appointed at the American Bar Association's Annual Meeting held from August 2-5, 2018 in Chicago, Illinois. The Workers' Compensation and Employers' Liability Committee focuses on workers' compensation laws throughout the U.S., including the interaction between workers' compensation and other federal and state laws and regulations. The Committee publishes several newsletters each year and provides educational instruction through webinars and an annual workers' compensation seminar, which address substantive legal issues and national trends by experts in the field of workers' compensation.



**Zachary M. Rubinich**

Zach served as Vice-Chair of the ABA TIPS Workers' Compensation and Employers' Liability Law Committee for 2015-2016, 2016-2017 and 2017-2018. In addition, Zach has been appointed as Vice-Chair of the 2017-2018 American Bar Association Standing Committee for Diversity and Inclusion.

Zach focuses his practice on the defense of insurance carriers, self-insured entities and third-party administrators against workers' compensation claims in Pennsylvania. Based on his extensive experience, the Pennsylvania Bar Association Workers' Compensation Law Section has certified him as Specialist in the practice of workers' compensation law. Zach has handled all aspects of litigation before workers' compensation judges, the Workers' Compensation Appeal Board, the Commonwealth Court and the Pennsylvania Supreme Court. He routinely counsels employers, insurance carriers and third party administrators on claims management, workplace safety, return-to-work programs, employment practices and risk management.

Zach has been rated AV Preeminent by Martindale-Hubbell for the sixth consecutive year in 2018. He has been selected as a **Pennsylvania Rising Star** by *Super Lawyers* from 2010 to 2014.

*Zach can be reached directly at: (215) 575-4340 • [zrubinich@rawle.com](mailto:zrubinich@rawle.com)*

## NEW ASSOCIATE

**Colin McIntyre** has joined our Philadelphia office as an associate. He focuses his law practice in the area of **workers' compensation litigation**.

Colin earned his J.D. from the University of Michigan Law School in 2009. He earned a B.S. in Geological Sciences in 2006 from the University of Michigan, where he was a member of the Honors Program. Colin is admitted to practice in Pennsylvania, New Jersey and Michigan, and also the U.S. District Court for the Eastern District of Pennsylvania.

Prior to joining Rawle & Henderson LLP, Colin was a contract attorney in Philadelphia from 2014 to 2018, working on product liability cases. He also worked as an eData attorney for a major Philadelphia law firm in 2017. Colin was a Law Clerk for Judge Scott Hill-Kennedy and Judge Ronald C. Nichols of the Michigan Forty-Ninth Circuit Court in Big Rapids from 2011 to 2013. In addition, he assisted clients facing eviction in pro bono landlord-tenant cases through Philly VIP, a pro bono legal services agency that serves over 3,500 clients a year and promotes equal justice for the poor.



**Colin McIntyre**

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## PHILADELPHIA BUSINESS JOURNAL

**PHILADELPHIA  
BUSINESS JOURNAL**

**Rawle & Henderson LLP** was ranked in the top 150 employers in the Philadelphia area in 2018 by the *Philadelphia Business Journal*. The *Business Journal* survey is based on the number of local employees. Rawle & Henderson LLP was ranked 141st, with a total of 140 employees in its Philadelphia, Marlton and Wilmington offices. The survey was published in the July 27, 2018 edition of the *Philadelphia Business Journal*.