

## David J. Creagan

Partner

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David works collaboratively with clients to understand their business objectives and advance their interests through effective and nuanced legal approaches.

### OVERVIEW

David Creagan focuses on the efficient resolution of complex commercial disputes through negotiation, mediation, arbitration, and court litigation. Keeping their business strategies and fundamental values in mind, David works collaboratively with clients to understand their business and advance their interests through effective and nuanced legal approaches. His clients in the manufacturing, distribution, banking, financial services, and insurance industries have relied on him to reach an early resolution on commercially reasonable terms where achievable, or to pursue vigorous litigation to a successful end when necessary.

In his commercial litigation practice, David has represented biotechnology companies, pharmaceutical and medical device manufacturers, oil and gas pipeline companies, railroads, consumer products manufacturers, D&O insurers, property insurers, and banking and financial services companies. He has helped clients reach successful outcomes in securities fraud and other federal and state securities litigation, in SEC and FTC investigations, in private antitrust and unfair competition suits, in intellectual property licensing disputes, in D&O coverage litigation, and in shareholder disputes and other corporate governance matters.

David has successfully defended a number of publicly traded biotechnology, financial services, and insurance companies in securities and antitrust class actions, and a medical device manufacturer in a product liability class action. He has also represented clients in class action opt-out cases brought after the successful resolution of the class claims.

David has been first chair trial counsel in federal and state courts, and in AAA, ARIAS, and international arbitrations. He has argued and won cases on appeal in the United States Court of Appeals for the Third Circuit in product liability, financial, and insurance cases. He has significant experience in international arbitration and litigation, including taking and coordinating discovery abroad.

### PRACTICES

Insurance Coverage and Bad Faith  
Commercial Litigation  
Appellate  
International  
Reinsurance  
Financial Lines  
Class Actions

### BAR AND COURT ADMISSIONS

Pennsylvania  
U.S. Court of Appeals for the Federal Circuit  
U.S. Court of Appeals for the Third Circuit  
U.S. District Court for the Eastern District of Pennsylvania  
U.S. District Court for the Middle District of Pennsylvania  
U.S. Court of International Trade

### EDUCATION

University of Virginia School of Law, JD, 1993  
University of Chicago, MA, 1981  
University of Notre Dame, BA, 1974, *magna cum laude*

### LANGUAGES

French

Italian

Portuguese

Spanish

David has represented reinsurers and ceding companies in disputes involving varied claims under pro rata, excess-of-loss, stop-loss and clash treaties, and under facultative certificates and financial risk reinsurance contracts. Issues he has handled include accumulation, allocation, retentions, follow-the-fortunes, reinstatements, additional premium, offsets, and deficit-carry-forward and aggregate extension clauses. David has secured wins for reinsurers and cedents in arbitrations that have gone to final hearing in the United States and Bermuda. He has also successfully litigated reinsurance disputes in federal district court, and has argued and won appeals from reinsurance arbitration awards in the United States Court of Appeals for the Third Circuit.

Before practicing law, David was a Foreign Service Officer with the U.S. Department of State for nine years, serving at United States embassies abroad and as a Special Assistant to the Secretary of State. He is a recipient of the Department of State's Superior Honor Award.

## RECOGNITION AND INVOLVEMENT

David is an elected member and President of the Borough Council of Swarthmore, Pennsylvania. He was President of A Better Chance Strath Haven, Inc., a local chapter of the national organization whose mission is to provide superior secondary school educational opportunities to students from disadvantaged backgrounds.

David has consistently been AV® rated by the Martindale-Hubbell peer review rating system for two decades.

David is an arbitrator in the Philadelphia Court of Common Pleas mandatory arbitration program, and a volunteer mediator and arbitrator in the Philadelphia Bar Association's Lawyer-Client Fee Disputes Program.

## REPRESENTATIVE MATTERS

White and Williams Represents CRP Industries  
10.8.19

Represented CRP Industries, a leading supplier to the automotive and industrial service, in the sale of its automotive belt business to Continental A.G., a developer of technologies and services for vehicles, machines, traffic and transportation

Represent a bank and publicly-traded holding company in a private securities class action brought under the 1933 Securities Act and the 1934 Securities Exchange Act

Swedish

## MEMBERSHIPS

ARIAS-US

American Bar Association; Litigation Section;  
International Section

Pennsylvania Bar Association

Philadelphia Bar Association; International  
Business Initiative Committee

Reached a favorable settlement for a bank and its directors and officers in an SEC investigation and enforcement action

Forced a favorable settlement of a breach of contract dispute for client U.S. manufacturer and distributor in an international Hong Kong arbitration against Korean and Chinese manufacturers

Compromised a D&O coverage suit on terms favorable to the client D&O insurer

Achieved a favorable result for a client M&A insurer in the first-ever AAA arbitration regarding a representations and warranties policy

Achieved settlements favorable to a private mortgage insurer in litigation and multiple AAA arbitrations regarding the underwriting and credit quality of pools of subprime and Alt-A mortgages

Represented a biopharmaceutical company in a securities fraud class action that resulted in a very favorable settlement for the company

Won summary judgment on all claims for a biopharmaceutical company in an opt-out securities fraud lawsuit

Defeated class certification against a national title insurance company in a state-wide class action, leading to dismissal of the case

Successfully argued in the U.S. Court of Appeals for the Third Circuit for judgment as a matter of law on all claims for a medical device manufacturer, after winning partial summary judgment on the eve of trial

Won dismissal at pleading stage of state-wide class action alleging overcharges against one of the largest pharmacy benefits managers

Reached a successful outcome for outside directors in a mediation of a suit brought in state court alleging breaches of fiduciary duty

Represented a private equity fund in a common-law fraud case that eventuated in a directed verdict for the fund.

Negotiated a favorable result for a broker and former broker in FINRA enforcement actions

Achieved a favorable settlement for a major pharmaceutical company mid-way through a AAA arbitration concerning intellectual property rights and contractual duties of good faith and fair dealing

Obtained a final award of all requested relief for a ceding company in an arbitration over the scope of coverage under an excess-of-loss facultative certificate

Won summary judgment for a pool of reinsurers in an arbitration involving allocation of losses to multiple treaty years

Successfully moved to vacate a final award against a retrocedent in an arbitration involving interpretation of a financial risk treaty, and won the ensuing appeal wherein the Third Circuit Court of Appeals affirmed the district court's vacatur

Represented a pool of reinsurers in an arbitration involving the accumulation of claims and the availability of aggregate excess cover

## EVENTS

M&A Shareholder Litigation and Bump-Up Claims  
Webinar, 4.27.21

## PUBLICATIONS

FTC Announces Revised Hart-Scott-Rodino Notification Thresholds Will Go into Effect March 6, 2024  
*Corporate and Securities Client Alert*, 3.5.24

Delaware Law May Govern D&O Coverage Dispute Transferred to Another District  
*Financial Lines Alert*, 4.13.22

CFIUS 2020 Annual Report  
*International Alert*, 8.13.21

M&A Objection Lawsuits and Claims for Inadequate Consideration: A "Bumpy" Road for D&O Insurers  
*Financial Lines Alert*, 5.26.21

Department of Commerce Issues New Interim Final Rule on Securing the Information and Communications Technology and Services  
Supply Chain

Potential New Level of Scrutiny for Certain Foreign Transactions  
*International Alert*, 2.18.21