

## Law360 Q&A with Kenneth Menendez

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**Kenneth Menendez**, a Member of the Firm in the Litigation and Labor and Employment practices, in the Atlanta office, was featured in a Q&A. (*Read the full version — subscription required.*)

Following is an excerpt:

**Q: What is the most challenging case you have worked on and what made it challenging?**

**A:** Perhaps the most challenging case in the insurance sphere involved our representation of an insurance broker in a case involving alleged negligent advice to a client.

Our client, Willis Insurance Services of Georgia, was sued by a former client who alleged that Willis was negligent in procuring certain directors and officers liability insurance for the client. We were successful in obtaining summary judgment in the trial court, but the plaintiff appealed the ruling. We argued the case before the Georgia Court of Appeals, where we prevailed in a 4-3 decision. The plaintiff then applied for a writ of certiorari to the Georgia Supreme Court, but the Georgia Supreme Court ultimately denied their request, ending the litigation.

**Q: What aspects of your practice area are in need of reform and why?**

**A:** I believe that the aspect of my practice area which is in the greatest need of reform is motion practice in both the state and federal court systems. Motion practice offers clients an opportunity to resolve issues (and sometimes entire cases) at an early stage of the litigation. Unfortunately, motion practice is currently administered unevenly from court to court.

The first issue is that some judges allow motions to languish on their dockets for extended periods of time. While acknowledging that most judges face significant workload challenges, the old adage about justice delayed being justice denied often applies in this area. In many cases, the parties are required to proceed with discovery despite the pendency of a motion, which might make certain discovery unnecessary or even result in the dismissal of a party from the case. The adoption of local rules establishing periods within which motions should be ruled upon might alleviate this problem.

The second problem involves diminishing opportunities for oral argument of motions. While again recognizing that most judges do not have time to hear oral argument on all motions, many judges have eliminated oral argument altogether. This practice sometimes denies a party its best opportunity to focus the court on the key elements of the motion or to respond to questions the court may have regarding the motion. Local rule amendments, which require oral argument for certain motions (such as motions for summary judgment) or which provide parties the right to designate a certain number of motions for oral argument, might address this problem.

## Resources

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