



Jeffrey M. Brenner

Principal
Insurance Law

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Represents national and regional insurers in life and disability insurance in the ERISA context as well as novel annuity and structured settlement disputes.

Bio

Jeffrey M. Brenner is a Principal in the Firm's **Insurance Law Department** and represents national and regional insurers in life and disability insurance in the ERISA context as well as novel annuity and structured settlement disputes. His ERISA litigation practice focuses on defending matters involving sophisticated preemption issues; fiduciary issues; fiduciary misrepresentation claims; prohibited transactions; Section 510 cases; benefit claims and challenges to health plans.

Mr. Brenner has extensive experience in the areas of annuities and structured settlement litigation. This experience includes representing national insurers in litigation where "factoring companies" attempt to purchase or transfer structured settlement payment rights stemming from annuities or reinsurance agreements. This litigation often focuses on opposition to the attempted sale or transfer of these payments on the grounds that these transactions violate state structured settlement protection acts (SSPA) or Workers' Compensation statutes, anti-assignment provisions, implicate minors, or are premised on misrepresentation or fraud. Additionally, Mr. Brenner works extensively with Post & Schell's Regulatory and Tax Controversy groups to counsel insurers on the novel regulatory and tax issues implicated in such litigation.

As coverage counsel, he is actively involved in the consulting and litigation of complex coverage and bad faith disputes involving all commercial lines, including commercial general liability (CGL), commercial crime, commercial property, business owner's policies (BOP), errors and omissions (E&O), and employer's liability (EL) policies. He has served Post & Schell's insurance clients in over forty states, including: California, Florida, Illinois, Maryland, Michigan, New Jersey, New York, Pennsylvania, and Texas, with a full spectrum of complex coverage consulting services, including coverage opinions, reservation of rights and denial letters, examinations under oath (EUO), rescission, interpleader, and declaratory judgment actions. Additionally, he routinely handles insurance bad faith litigation, agent-broker disputes, and causes of action filed under Pennsylvania's Unfair Trade Practices Act and Consumer Protection Law (UTPCPL).

Prior to joining Post & Schell, Mr. Brenner was an Associate with a Philadelphia-based insurance firm where he compiled First Chair trial experience. Mr. Brenner routinely serves as an arbitrator in the Philadelphia County Court of Common Pleas.

Practices

- Life, Health, Disability and ERISA Litigation
- Complex Insurance Coverage Advice and Litigation
- Insurance Law
- Bad Faith and Extra-Contractual Litigation
- Insurance Fraud and Arson

Industries

- Insurance

Education

- J.D., *Cum Laude*, *Dean's List*, Temple University James E. Beasley School of Law, 2012 *Temple Law Review*, Lead Articles Editor (2011-2012; Staff Member (2010-2011); *Robert E. Lamberton Award* (2012), Graduating with highest grade in Constitutional Law
- B.A. in American Studies, *Dean's List*, Pennsylvania State University

Bar Memberships

- New Jersey
- Pennsylvania
- District of Columbia

Court Admissions

- U.S. Supreme Court
- U.S. Court of Appeals, Third Circuit
- U.S. Courts of Appeals, Fifth Circuit
- U.S. District Court for the District of Columbia
- U.S. District Court for the District of New Jersey
- U.S. District Court for the Eastern District of Pennsylvania
- U.S. District Court for the Middle District of Pennsylvania
- U.S. District Court for the Western District of Pennsylvania

Mr. Brenner was selected for inclusion in the 2015 - 2020 editions of *Philadelphia Magazine's* "Pennsylvania Super Lawyer - Rising Stars," a listing of the top 2.5 percent of attorneys in the Commonwealth who are 40 or younger or have been practicing for less than 10 years. For information about this selection and an overview of common third-party publications, rankings, and lists methodologies, [click here](#).

- U.S. District Court for the Northern District of Texas
- U.S. District Court for the District of New Mexico

Representative Cases

- *Capital Flip, LLC v. American Modern Ins. Co.*, 2019 U.S. Dist. LEXIS 165422 (W.D. Pa. 2019) (Breach of contract and bad faith counts dismissed with prejudice; no appeal; policy terms not ambiguous if not defined in policy).
- *Rome v. HCC Life Ins. Co.*, 2018 U.S. Dist. LEXIS 102962 (N.D. Tex. 2018) (dismissing Plaintiff's complaint wherein Plaintiff claimed benefits due under a disability policy issued to National Hockey League (NHL) players after the court found that the policy is an Employee Welfare Benefit Plan under ERISA, and therefore ERISA preempted all state law causes of action).
- *In re Joint in re Peachtree Settlement Funding, LLC*, 2018 Pa. Dist. & Cnty. Dec. LEXIS 3 (Clinton Cnty C.P. Jan. 2, 2018) (full opinion denying Peachtree Settlement Fundings Joint Petition to Transfer Structured Settlement where court determined the proposed transfer of the structured settlement was not in the payee's best interest, and therefore violated Pennsylvania's Structured Settlement Protection Act (SSPA), 40 P.S. §4001, *et seq.*).
- *Newcomer v. Henkels & McCoy, Inc.*, 2017 U.S. Dist. LEXIS 120427 (M.D. Pa. 2017) (alleged inadequate pension plan contributions; with prejudice dismissal of plaintiff's ERISA claims for equitable relief, breach of fiduciary duty, and 1132(a)(1)(B) benefits; no appeal).
- *Conquest v. WCM Mortgage Corp., et al.*, 247 F. Supp. 3d 618 (E.D. Pa. 2017) (full dismissal of case with prejudice in matter against a force-placed property insurer involving counts for breach of contract, bad faith, breach of fiduciary duty, civil conspiracy, and unjust enrichment).
- *In re: C. Dwyer*, 2017 Pa. Super. Unpub. LEXIS 322 (Pa. Super. 2017) (parting with the Eleventh Circuit and holding that the Longshore Harbor Workers' Compensation Act ("LHWCA"), 33 U.S.C.A. § 916, unequivocally bars any transfer or assignment of periodic payments from a structured settlement entered into under the Act).
- *Fieldhouse v. Metro. Prop. & Cas. Ins. Co.*, 153 A.3d 1113 (Pa. Super. 2016) (obtained summary judgment on bad faith claim involving equitable tolling, affirmed by the Superior Court of Pennsylvania).

Representative Jury Trials

- *Chudnoff et al. v. Eschleman*, Montgomery County Court of Common Pleas No. 2011-04629 (Defense verdict on \$100,000.00 demand)
- *Leniger v. Anderson*, Bucks County Court of Common Pleas No. 2010-12147 (Jury award of substantially less than Plaintiff's demand and amount offered by client prior to selection of the jury)

Affiliations

- American Council of Life Insurers (ACLI)
- National Structured Settlement Trade Association (NSSTA)
- Defense Research Institute (DRI)

Post & Schell^{PC.}

ATTORNEYS AT LAW

- American Bar Association (ABA)