



## Steven Schildt

Principal  
Vice-Chair, Insurance Law Department

Philadelphia, PA  
Phone: 215-587-1089  
Mobile: (267) 322-0388  
Fax: 215-320-4762

[sschildt@postschell.com](mailto:sschildt@postschell.com)

### Bio

**Steven Schildt** is a Principal and the Vice-Chair of the Firm's **Insurance Law Department**. He works out of the Firm's Pennsylvania and New Jersey offices and has devoted his entire legal career to representing insurers in coverage, ERISA, and bad faith matters. Steve has been honored by being selected for inclusion in the 2018 – 2021 editions of *The Best Lawyers In America*, Insurance Law category. His national and broad-based coverage litigation and coverage opinion practice encompasses personal and commercial insurance claims and disputes in almost all areas, including disability claims, ERISA claims, bad faith claims, life/accidental death claims, CGL claims (including additional insured and construction defect disputes), property insurance claims, business interruption claims, health insurance claims, commercial auto claims, policy rescission/policyholder fraud, professional liability claims, D&O claims, long-term care claims, and all types of casualty claims. Steve has been lead counsel in thousands of such disputes in many different federal courts, state courts, and arbitration forums. He also handles complex coverage and bad faith matters involving excess verdicts, trigger issues, allocation, horizontal/vertical exhaustion, and the interaction among primary, excess, and umbrella policies.

Steve also has proven experience in defending and obtaining the dismissal of class action cases and RICO actions involving claims handling and policy interpretation issues. Further, Steve has extensive experience with the business side of insurance and routinely defends agents, brokers, and producers against business tort claims and errors/omissions claims (negligence, misrepresentation, etc.). Many of his victories have generated significant and often-cited published opinions. A partial list is above under the Representative Cases tab.

Steve is often consulted during claim investigations and routinely drafts reservation of rights and coverage position letters. He also regularly presents claims professionals training seminars and has written numerous articles on insurance coverage issues. Every year since 2005, Steve has been honored by his peers as a *Pennsylvania Super Lawyer* in the Insurance Coverage category as published by *Philadelphia Magazine* and *American Lawyer Media*. Finally, Steve periodically serves as both a privately-retained and court-appointed mediator/arbitrator in coverage, ERISA, and bad faith cases.

In 2008 Steve was elected a member of the by-invitation-only Federation Of Defense And Corporate Counsel. In 2021 Steve was elected as a Fellow in the American College of Coverage Counsel.

### Honors/Awards

- *The Best Lawyers In America*, Insurance Law category (2018 – 2020 editions)

### Practices

- Insurance Law
- Bad Faith and Extra-Contractual Litigation
- Life, Health, Disability and ERISA Litigation
- Construction Defect/Injury Insurance Coverage
- Complex Insurance Coverage Advice and Litigation
- Insurance Fraud and Arson
- Appellate
- Class Action Defense
- Coronavirus (COVID-19) Task Force
- Alternative Dispute Resolution

### Industries

- Insurance

- Member of the Federation of Defense and Corporate Counsel
- Fellow, American College of Coverage Counsel
- 2005 – present Pennsylvania Insurance Coverage Super Lawyer (as published by *Philadelphia Magazine* and American Lawyer Media)

## Education

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- J.D., Temple University School of Law, 1996
- B.A., Princeton University, 1991

## Representative Cases

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- *Joseph Oliver Constr. v. Utica First Ins. Co.*, 2020 U.S. Dist. LEXIS 118595 (E.D. Pa. 2020) (injured parties no standing to sue tortfeasor's insurer; duty to indemnify not ripe until judgment entered against insured in underlying action).
- *Bloom v. AXA Equitable Life Ins. Co.*, 2020 U.S. Dist. LEXIS 116709 (E.D. Pa. 2020) (alleged violations of Pennsylvania Unfair Insurance Practices Act and Pennsylvania Unfair Claims Settlement Practices Regulations cannot be used to prove bad faith under PA law; policy definition of total disability clear and unambiguous).
- *Reichard v. United of Omaha Life Ins. Co.*, 805 Fed. Appx. 111 (3d Cir. 2020) (affirming SJ in favor of insurer in ERISA benefits case, declaring conflict of interest/"batting average" discovery improper, and holding that no law or regulation requires insurers to adopt a claims manual, IME report typos/spelling mistakes are immaterial, and insurer's SSA benefit vendor not an agent of insurer).
- *Shah v. Horizon Blue Cross Blue Shield*, 2018 U.S. Dist. LEXIS 50412 (D.N.J. 2018) (full and with prejudice Summary Judgment dismissal of ERISA benefits case per finding that assignment was defective; no appeal by plaintiff surgical practice).
- *Capital Flip, LLC v. American Modern Ins. Co.*, 416 F. Supp.3d 435 (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).
- *Eberhard v. United of Omaha Life Ins. Co.*, 2019 U.S. Dist. LEXIS 100502 (M.D. Pa. 2019) (judgment entered in full on ERISA equitable lien counterclaim and on reimbursement agreement counterclaim re: \$202,000 overpayment of LTD benefits).
- *Francese v. American Modern Ins. Group*, 383 F. Supp.3d 336 (D.N.J. 2019) (full and with-prejudice dismissal via motion to dismiss of New Jersey class action case based on filed rate doctrine).
- *Arya v. Provident Life & Accident Ins. Co.*, 2018 U.S. Dist. LEXIS 161604 (E.D. Pa. 2018) (insurer's COLA calculations done properly under both law of Delaware and Ontario, Canada, regarding automatic increases not triggered and COLA benefits not compounded; summary judgment entered for insurer on all counts).
- *Reichard v. United of Omaha Life Ins. Co.*, 331 F. Supp.3d 435 (E.D. Pa. 2018) (comprehensive 80-page Summary Judgment ERISA opinion finding that insurer properly denied long-term disability benefits, and rejecting all of insured's arguments re: medical reviews, use of doctor employed by insurer, insured's award of social security disability benefits, lack of claim manual, failure to consider side effects of medication, flawed TSA, and 20-minute IME).
- *Rome v. HCC Life Ins. Co.*, 323 F. Supp.3d 862 (N.D. Tex. 2018) (full ERISAfication of catastrophic injury disability policy covering players in National Hockey League).

- *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, with prejudice dismissal of case against a force-placed property insurer involving counts for breach of contract, bad faith, breach of fiduciary duty, civil conspiracy, and unjust enrichment).
- *D'Elia v. Unum Life Ins. Co.*, 223 F. Supp.3d 380 (E.D. Pa. 2016) (full ERISAfication of 5 individual disability policies issued to urologist; comprehensive discussion of ERISA plan elements/requirements and safe harbor provision).
- *Fieldhouse v. Metro. Prop. & Cas. Ins. Co.*, 153 A.3d 1113 (Pa. Super. 2016) (complete dismissal of bad faith case affirmed).
- *Bruce Neff, Esq. v. UnumProvident Corp.*, 2015 U.S. Dist. LEXIS 110026 (E.D. Pa. 2015) (dismissal of entire case consisting of counts for RICO, conversion, intentional interference with contractual relations, fraud, and civil conspiracy; discovery rule and doctrine of fraudulent concealment inapplicable).
- *Stanford v. National Grange Ins. Co.*, 64 F. Supp.3d 649 (E.D. Pa. 2014) (summary judgment dismissal under Delaware law of bad faith case alleging bad faith delay and bad faith handling of UM claim).
- *Courter v. Westfield Ins. Co.*, 2014 U.S. Dist. LEXIS 152556 (E.D. Pa. 2014) (summary judgment dismissal of breach of contract and bad faith case regarding UM claim involving fatality).
- *Everett v. United of Omaha Life Ins. Co.*, 2013 U.S. Dist. LEXIS 146013 (M.D. Pa. 2013) (reversal of Magistrate Judge finding; ruling in favor of insurer on ERISA life insurance claim; doctrine of waiver cannot be used to defeat coverage defenses under ERISA-governed insurance/benefit plans).
- *Cozzone v. AXA Equitable Life Ins. Co.*, 858 F. Supp.2d 452 (M.D. Pa. 2012) (dismissal of bad faith claim).
- *Bariski v. Reassure America Life Ins. Co.*, 834 F. Supp.2d 233 and 2010 U.S. Dist. LEXIS 71488 (M.D. Pa. 2010 and 2011) (dismissal of unfair trade practices and consumer protection law claims; dismissal of bad faith claim; discovery rule and doctrine of fraudulent concealment inapplicable to bad faith claims).
- *Serino v. Prudential Ins. Co.*, 706 F. Supp.2d 584 (M.D. Pa. 2009) (policy interpretation issues; all agent representations barred pursuant to parol evidence rule and integration clause; judgment entered in favor of insurer).
- *Spillane v. AXA Equitable Life Ins. Co.*, 648 F. Supp.2d 690 (E.D. Pa. 2009) (ERISAfication of individual disability policy).
- *City of Bethlehem v. Artsquest*, 2009 Pa. Dist. & Cnty. Dec. LEXIS 25 (Northampton County Trial Court 2009) (prevailing opinion in insurer versus insurer dispute involving numerous and complex issues regarding duty to defend provisions, duty to indemnify provisions, CGL additional insured coverage, no indemnity coverage for intentional torts rule, and CGL insured contract coverage).
- *Brand v. AXA Equitable Life Ins. Co.*, 2008 U.S. Dist. LEXIS 69661 (E.D. Pa. 2008) (under Pennsylvania law reinsurers and third-party administrators cannot be held liable to claimant for breach of contract or insurance bad faith).
- *Pappa v. Unum Life Ins. Co.*, 2008 U.S. Dist. LEXIS 21500 and 39560 (M.D. Pa. 2008) (dismissal of multi-count RICO case regarding claims handling practices).
- *Adams v. Reassure America Life Ins. Co.*, 2003 U.S. Dist. LEXIS 5433 (M.D. Pa. 2003) (first reported opinion which utilizes fortuity/known loss doctrine to bar recovery under an IDI policy that was incontestable, lacked first

manifest language, and had an expired pre-ex period; judgment entered on rescission counterclaim).

- *Waters v. Kemper Ins. Co.*, 2004 U.S. Dist. LEXIS 7379 (W.D. Pa. 2004) (ERISA preemption of state law claims).
- *Snook v. Geisinger Health Plan*, 241 F. Supp.2d 485 (M.D. Pa. 2003) (UNUM v. Ward and Rosenbaum v. UNUM opinions do not alter ERISA preemption of bad faith claims).
- *Snook v. Geisinger Health Plan*, 2001 U.S. Dist. LEXIS 25036 and 2002 U.S. Dist. LEXIS 25695 (M.D. Pa. 2001 and 2002) (ERISA governmental plan exemption does not apply to Geisinger Health Plan).
- *Bartlett v. Pennsylvania Blue Shield*, 2003 U.S. Dist. LEXIS 5292 (E.D. Pa. 2003) (ERISA preemption; RICO claim dismissed).
- *Doe v. Provident Life & Accident Ins. Co.*, 1997 U.S. Dist. LEXIS 5462 (E.D. Pa. 1997) (motion in limine opinion excluding from trial all evidence regarding claims handling, other lawsuits, company finances, marketing practices, and business practices).

## Bar Memberships

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- New Jersey
- Pennsylvania

## Publications

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- Co-Author of Seminar Paper, "2017 Bad Faith Review," Pennsylvania Defense Institute (July 2017)
- Co-Author of Course Materials, "2014 Bad Faith Law Update," Pennsylvania Bar Institute Seminar (April 2014)
- Course Materials, "Recent Bad Faith Trials," Lecture to the Philadelphia Association of Defense Counsel (PADC) (February 2014)
- Course Materials, "Insurance Bad Faith," 2013 Insurance Law Update, Pennsylvania Bar Institute (October 2013)
- Course Materials, Insurance Bad Faith Section, 2012 Auto Law Update, Pennsylvania Bar Institute (November 2012)
- Course Materials/Co-Author, "Auto Law Update: Bad Faith," Pennsylvania Bar Institute Auto Law Update (October 2011)
- Trial Preparation Checklist, "Your First Bench Trial," Pennsylvania Bar Institute Seminar (2009)
- Insurance Coverage and Bad Faith, Seminar Paper, Dispute Resolution Institute Seminar (2008)
- Insurance Bad Faith, Seminar Paper, Pennsylvania Auto Law Update Seminar (2007)
- Insurance Coverage and Bad Faith, Seminar Paper, Dispute Resolution Institute Seminar (2007)
- Insurance Bad Faith, Seminar Paper, Pennsylvania Bar Institute (2005)
- "Investigation and Referral of Fraudulent Disability Claims to the Government for Criminal Prosecution," Seminar Paper, NHCAA Health Care Fraud Prevention Training Conference, Las Vegas, NV (2004)
- "Wrong Turn: Pennsylvania District Courts Chart New Course, Holding That Bad Faith Claims Are Not Preempted By ERISA," Mealey's Disability Insurance Litigation Report (December 2003); Mealey's Insurance Bad Faith Litigation Report (November 2003); Mealey's ERISA Litigation Report (November 2003)

- "Disability Income Claims Legal Update," Seminar Paper, Eastern Claims Conference, New York, NY (2003)
- "Able or Not? The Insurer's Perspective On The So-Called Factual vs. Legal and Risk of Relapse Disability Cases," Seminar Paper, American Conference Institute Disability Litigation Seminar, Boston, MA (2001)
- "Special Investigative Units: Avoiding Bad Faith in the Fight Against Fraud," Seminar Paper, American Conference Institute Bad Faith Litigation Seminar, Chicago, IL (2001)
- Co-Author, Pennsylvania Bar Institute Civil Litigation Update (1999)

## Speaking Engagements

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- Panelist, "Bad Faith Update: *Rancosky* and Beyond," Pennsylvania Defense Institute 2017 Annual Conference
- Lecture, "2014 Bad Faith Law Update," Pennsylvania Bar Institute Seminar (April 2014)
- Lecture & Author, "Recent Bad Faith Trials," Presented to the Philadelphia Association of Defense Counsel (PADC) (February 2014)
- Lecture & Author, "Insurance Bad Faith Update," Pennsylvania Bar Institute 2013 Insurance Law Update Seminar (October 2013)
- Lecture, "Auto Law Update: Bad Faith," Pennsylvania Bar Institute Auto Law Update, Philadelphia, PA (October 2011)
- Speaker/Author, "Your First Bench Trial," Pennsylvania Bar Institute Seminar (2009)
- Speaker, Insurance Coverage and Bad Faith, Dispute Resolution Institute Seminar (2008)
- Speaker, Insurance Bad Faith, Pennsylvania Auto Law Update Seminar (2007)
- Speaker, Insurance Coverage/Bad Faith, Dispute Resolution Institute Seminar (2007)
- Speaker, "Recent Developments in Pennsylvania Insurance Bad Faith Law," Meeting of the Philadelphia Association of Defense Counsel (September 2006)
- Lecture, Defense of Insurance Bad Faith Claims, Pennsylvania Bar Institute Insurance Bad Faith Seminar (2005)
- Presenter, Investigation and Referral of Fraudulent Disability Cases to the Government for Criminal Prosecution, NHCAA Health Care Fraud Prevention Training Conference, Las Vegas, NV (November 8-11, 2004)
- Mr. Schildt also lectures at claims professional training seminars

## Court Admissions

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- U.S. Supreme Court
- U.S. Court of Appeals, Third Circuit
- 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
- U.S. District Court for the District of New Jersey

## Affiliations

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- Federation of Defense and Corporate Counsel

- Fellow, American College of Coverage Counsel
- American Council of Life Insurers
- Defense Research Institute
- Pennsylvania Defense Institute
- Pennsylvania Bar Association
- Philadelphia Bar Association
- New Jersey Bar Association