



Michael J. Miller

Chair, Life Insurance & Annuities
Co-Chair, Software

Philadelphia

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Practice Areas

- Life Insurance & Annuities

Industry Sectors

- Software

Education

- Temple University—James E. Beasley School of Law, J.D., *cum laude*, 1991
- University of South Florida, B.S., *magna cum laude*, 1988

Bar Admissions

- New Jersey
- Pennsylvania

Court Admissions

- U.S. Court of Appeals for the Third Circuit
- U.S. District Court -- Eastern District of Pennsylvania

Awards & Honors

- Litigation Star, Benchmark Litigation
- Lawyers of Distinction, 2023

Michael is a commercial trial lawyer who concentrates his practice on major life insurance secondary market and software litigation cases. Michael also represents insurers in property, casualty, commercial, and environmental insurance coverage cases, life and disability insurance coverage cases, alleged agent and broker fraud and Ponzi scheme cases, RICO cases, and countless cases involving life insurance and annuities. Michael has litigated a broad range of commercial issues, including life insurance, software, real estate, equipment leasing, lending agreements, shareholder disputes, and construction cases. With an insurance litigation practice that is national in scope, Michael has a record of successfully litigating the full spectrum of cases involving the sale of life insurance policies and annuities in the secondary market — including stranger-originated life insurance (STOLI) cases.

Michael has an impressive track record representing software firms involved in software defect, implementation, and licensing disputes. These cases are litigated and tried in courts all across the country and in international arbitration centers.

Michael has been especially focused on cases arising out of the improper sale of life insurance policies (and interests therein) on the secondary market (i.e., STOLI). As chair of the Life Insurance & Annuities Group, Michael plays a role in virtually all of the group's STOLI cases. Michael has a record of successfully litigating the full spectrum of case variations that arise out of STOLI. Michael has also assisted with drafting model secondary market legislation.

In addition to his experience in commercial litigation issues, Michael has taken the lead in complex insurance litigation and transactional matters, including complex environmental risk transfer issues, owner- and contractor-controlled insurance programs, and captive issues. Michael negotiates contracts for transfers of complex environmentally contaminated real estate, and then works with brokers and underwriters to draft insurance policies designed to address these risks. He was closely involved in "Early Transfer" transactions at the Mare Island Navy Base (California) and the Fort Ord Army Base (California).

Michael has been recognized for several years as a "Litigation Star" by Benchmark Litigation. Insurance industry associations often invite Michael to speak at their conferences, and he is a regular presenter at the National Structured Settlements Trade Association (NSSTA) meetings. Michael currently serves as outside general counsel to NSSTA.

Michael earned his undergraduate degree, *magna cum laude*, from the University of South Florida. Michael earned his law degree, *cum laude*, from Temple University Beasley School of Law where he was on law review.

Experience

STOLI Decisions

A few of the reported STOLI cases in which Michael played a key role include the following:

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Insurer Cases

- *Sun Life Assur. Co. v. Wilmington Trust, N.A.*, 2022 WL 179008 (Del. Super. Ct. Jan. 12, 2022) (“*DeBourbon and Franke*”) (obtained summary judgment under Delaware law in connection with claims on two LPC STOLI policies with aggregate face amount of \$19 million)
- *Sun Life Assur. Co. v. Wells Fargo Bank, N.A.* , 2020 WL 1503641 (N.D. Ill. March 30, 2020) (“*Corwell*”) (obtained summary judgment on Coventry STOLI policy under Illinois law with face amount of \$5 million)
- *Sun Life Assur. Co. v. U.S. Bank N.A.* , 369 F.Supp.3d 601 (D. Del. 2019) (“*So*”) (obtained summary judgment on Coventry STOLI policy under Delaware law with face amount of \$5 million)
- *Sun Life Assur. Co. v. Wells Fargo Bank, N.A.* , 238 N.J. 157 (2019) (“*Bergman*”) (certified question to New Jersey Supreme Court resulting in invalidation of \$5 million STOLI policy under New Jersey law)
- *Sun Life Assurance Co. of Canada v. U.S. Bank Nat'l Ass'n* , 693 F. App'x 838 (11th Cir. 2017) (“*Malkin*”) (successfully argued and preserved the first of several Coventry STOLI victories under Delaware law)
- *Sun Life Assurance Co. of Canada v. Conestoga Tr. Servs., LLC* , 263 F. Supp. 3d 695 (E.D. Tenn. 2017), *aff'd* 717 Fed. Appx. 600 (6th Cir. 2018) (“*Collins*”) (successfully argued and preserved a “front-end” STOLI victory under Tennessee law)
- *U.S. Bank Nat'l Ass'n v. Sun Life Assurance Co. of Canada* , 2016 WL 8116141 (E.D.N.Y. Aug. 30, 2016), report and recommendation adopted, 2017 WL 347449 (E.D.N.Y. Jan. 24, 2017) (“*Van de Wetering*”) (obtained summary judgment on \$10 million Coventry STOLI policy under Delaware law)
- *Columbus Life v. Wilmington Tr. Co.*, 2023 WL 1956868 (Del. Super. Ct. Feb. 13, 2023) (“*Kluener & Chisholm*”) (declaring two \$5 million policies void *ab initio* for lack of insurable interest under Delaware law because the policies were procured using non-recourse premium financing that the insureds had no obligation to repay and the insureds did not pay any of the premiums using their own money)
- *Columbus Life v. Wilmington Tr., N.A.*, 2023 WL 6813150 (D. Del. Mar. 21, 2023) (“*Cohen & Romano*”) (entering summary judgment in favor of insurer declaring two \$5 million life insurance policies procured through the same program as the void policies at issue in *Kluener & Chisholm* void *ab initio* for lack of insurable interest under Delaware law after investor did not contest the policies’ validity on summary judgment)

Estate/Family Cases

- *Estate of Malkin v. Wells Fargo Bank, N.A.*, 379 F. Supp. 3d 1263 (S.D. Fla. Mar. 29, 2019), *aff'd in part, vacated in part, and questions certified by* 998 F.3d 1186 (11th Cir. 2021) (\$4 million STOLI policy found void and family awarded all proceeds plus interest)
- *U.S. Bank, N.A. v. Estate of Albart*, No. 2020-CA-0762, 2023 WL 7491131 (Fla.Cir.Ct. Oct. 23, 2023) (\$10 million STOLI policy found void and family awarded all proceeds plus interest)
- *Estate of Barotz v. Vida Longevity Fund*, No. N20C-05-144 EMD CCLD, 2022 WL 16833545 (Del. Super. Ct. Nov. 9, 2022) (\$5 million STOLI policy found void and family awarded all proceeds plus interest)
- *Estate of Martha Barotz v. Martha Barotz 2006-1 Ins. Trust et al.*, No. N20C-04-126 EMD CCLD, 2023 WL 8714990 (Del. Super. Ct. Dec. 18, 2023) (\$8 million STOLI policy found void and family awarded all proceeds plus interest) (on appeal)
- *Estate of Diamond v. U.S. Bank, N.A.*, No. 502021CA004791XXXXMB, 2023 WL 6392688 (Fla.Cir.Ct. Sept. 15, 2023) (\$7.8 million STOLI policy found void and family awarded all proceeds plus interest)

Additional Reported Decisions

- *Matthews v. Liberty Assignment Corp.*, No. S-150-CV0282983, 2016 Cal App. LEXIS 356 (Cal. Ct. App. May 2, 2016) (defeated attempted structured settlement factoring transaction of worker's compensation payments)
- *Moore, et al. v. EPS Settlements Group, et al.*, No. 14-CV-80521-COHN/SELTZER, 2015 WL 4775974 (S.D. Fla. Dec. 17, 2014) (defeated class action arising out of structured settlement shortfall payments following insolvency of annuity issuer)
- *Jackson v. Rohm & Haas Company, et al.*, 06-3682, 2007 U.S. Dist. LEXIS 65900 (E.D. of Pa., September 5, 2007) (defeated RICO claims against insurer arising out of disability insurance)
- *RegScan v. Brewer, et al.*, 04-6043, 2007 U.S. Dist. LEXIS 20087 (E.D. of Pa., March 16, 2007) (defeated RICO claims brought by competing environmental research technology firm)
- *Lang v. Continental Assurance Company, et al.*, 2002 U.S. App. LEXIS 24586 (3d Cir., December 4, 2002) (obtained ruling that continuing coverage refusals were not distinct acts and coverage dispute was not continuous and ongoing for statute of limitations purposes)
- *Singer Asset Finance Company, L.L.C. v. Johnny L. Bachus and State Farm Life Insurance Company, et al.*, 741 N.Y.S.2d 618 (4th Dept. 2002) (defeated factoring of structured settlement payments based on anti-assignment language)
- *WebBank v. American General Annuity Service Corp., et al.*, 54 P.3d 1139 (Utah 2002) (argued and preserved summary judgment on loan versus sale principle)
- *Vance Williams v. Nationwide Mutual Insurance Company, et al.*, 750 A.2d 881 (Pa. Super. 2000) (defeated class action claims in connection with automobile settlement practices)

Commercial/Intellectual Property Litigation

- After obtaining partial summary judgment on behalf of a software provider, led trial team to complete defense victory in a jury trial on the remaining fraud and misrepresentation claims.
- Obtained a substantial award for a client that had contracted with a software development firm to produce computer sports games. Commenced and prosecuted a successful arbitration proceeding when the software development firm failed to produce a working product.
- For a global software provider, led a team of lawyers in the successful defense of an international arbitration after a delayed and troubled implementation of a massive ERP solution.
- Led large teams in multiple complex software defect, implementation, and licensing disputes.