



# Brian D. Burack

## Member

## Philadelphia

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### Practice Areas

- Commercial Litigation
- Life Insurance & Annuities

### Industry Sectors

- Insurance
- Software

### Education

- Temple University—James E. Beasley School of Law, J.D., *magna cum laude*, 2011
- George Washington University, B.A., *magna cum laude*, 2008

### Bar Admissions

- New Jersey
- Pennsylvania

### Court Admissions

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

### Awards & Honors

- Anti-Defamation League Beau Biden Shield Award Winner, 2017

Brian is a dynamic and successful litigator with substantial first-chair trial and appellate experience. He focuses his practice on complex life insurance and financial services disputes. Brian helps his clients to prosecute and combat the fraudulent creation of life insurance policies that lacked insurable interest at inception — often referred to as stranger-originated life insurance or STOLI. These fraudulent policies violate the law and public policy of most states, and Brian has been successful in helping his clients secure favorable rulings that such policies are invalid. Brian also represents the families of insureds who were the subject of (and often the victims of) these investor-run STOLI schemes.

Prior to joining the firm, Brian spent eight years as an assistant district attorney in Chester County, Pennsylvania. As a prosecutor, Brian tried over 20 jury trials to verdict, including several first-degree murder cases, violent assaults, and a high profile corruption case involving a public school superintendent, for which Brian was awarded with the ADL Beau Biden Shield Award — presented by then-former Vice President Joseph Biden. Brian also developed significant skills and experience as the supervising attorney of the Chester County Investigating and Indicting Grand Jury.

Brian earned his bachelor's degree, *magna cum laude*, from The George Washington University and his law degree, *magna cum laude*, from Temple University Beasley School of Law. In law school, Brian was a staff member for *Temple Law Review*, a member of Temple's Moot Court Honor Society, and a member of Temple's National Trial Team. In 2009, Brian was named champion of Temple's school-wide moot court competition. In 2010, Brian advanced to the national finals of the National Trial Competition (in Texas) as well as the National Moot Court Competition (in New York). After law school, Brian returned to Temple where he taught trial advocacy as an adjunct professor.

## Experience

Obtained complete victory for the plaintiff insurance carrier with a finding (affirmed by the U.S. Court of Appeals for the Seventh Circuit) that the carrier was not obligated to pay the death benefit on a \$5 million policy because it was stranger-originated life insurance (STOLI) lacking insurable interest that was void *ab initio* under Illinois law as an illegal human-life wager. The Seventh Circuit then ruled (reversing the District Court) that the insurer was entitled to keep all of the premiums received because the investor-owner of the policy (a sophisticated hedge fund) knew or should have known the policy was illegal. *Sun Life Assurance Co. of Canada v. Wells Fargo Bank, N.A.*, 44 F.4th 1024 (7th Cir. 2022)

Obtained victory for the plaintiff insurance carrier, declaring two life insurance policies (with death benefits totaling \$19 million) void *ab initio* human-life wagers under Delaware law. *Sun Life Assur. Co. of Canada v. Wilmington Trust, N.A.*, 2022 WL 179008 (Del. Super. Ct. Jan. 12, 2022).

Represented the insurance carrier on appeal to the Delaware Supreme Court, resulting in an important precedent that investors caught holding policies lacking an insurable interest under Delaware law are not automatically entitled to a return of premium. The Delaware Supreme Court rejected the so-called "automatic" return of premium rule (which federal courts across the country had been applying for nearly 10 years) and instead held that investors seeking a return of premiums paid into a STOLI policy will be left where they are found (without a remedy) unless they can prove a viable legal theory and satisfy a fault-based analysis that focuses on knowledge of the STOLI scheme. *Geronta Funding v.*

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*Brighthouse Life Ins. Co.*, --- A.3d ---, 2022 WL 3654872 (De. 2022) (en banc).

Secured complete dismissal of the defendant insurance company (at the pleadings phase) in a case alleging the insurer had improperly issued annuity payments and conspired to defraud the policy's alleged beneficiary.

Successfully represented an insurance company in opposing the illegal transfer of structured settlement payment rights arising out of a workers' compensation award under the Mississippi Structured Settlement Protection Act and, in a separate case, under the Nevada Structured Settlement Protection Act.