



# Michael J. Miller

**Chair, Life Insurance & Annuities**  
**Co-Chair, Software**

**Philadelphia**

**mjmiller@cozen.com | (215) 665-4114**

## Practice Areas

- Life Insurance & Annuities

## Industry Sectors

- Software

## Education

- Temple University 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

For the last 20 years, Michael has concentrated his practice on major insurance secondary market and software litigation cases. He has also represented insurers in property, casualty, and 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 annuities.

Michael has litigated a broad range of commercial issues, including real estate disputes, equipment leasing, lending agreements, shareholder disputes, and construction cases. With an insurance litigation practice that is national in scope, he has a record of successfully litigating the full spectrum of cases involving the sale of life insurance policies and annuities in the secondary market — often representing clients in connection with attempts by “factoring companies” to effectuate purchases of structured settlement payment streams.

Michael also 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 active handling cases arising out of the improper sale of life insurance policies (and interests therein) on the secondary market, sometimes referred to as stranger-originated life insurance (STOLI). Michael provides representation in connection with attempts by “factoring companies” to effectuate purchases of structured settlement payment streams. Michael has a record of successfully litigating the full spectrum of case variations that arise out of STOLI and structured settlements. He has assisted with drafting model legislation and has counseled insurers on developing protocols for responding to the issues raised by factoring transactions and the claims that often result from these transactions. He has developed a national reputation for successfully litigating these cases.

In addition to his experience in a wide range of commercial litigation issues, Michael has also taken the lead in complex insurance 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 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 local “Litigation Star” by *Benchmark Litigation*. Insurance industry associations often invite Michael to speak at their conferences, and Michael is a regular presenter at the National Structured Settlements Trade Association (NSSTA) meetings.

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

### Reported Decisions

**Michael J. Miller**

mjmiller@cozen.com

P: (215) 665-4114 | F: (215) 372-2347

©2020 Cozen O'Connor. All rights reserved.



A few of Michael's reported case decisions include the following:

- Sun Life Assurance Co. of Canada v. U.S. Bank Nat'l Ass'n, 693 F. App'x 838 (11th Cir. 2017).
- Sun Life Assurance Co. of Canada v. Conestoga Tr. Servs., LLC, 263 F. Supp. 3d 695 (E.D. Tenn. 2017).
- 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).
- Sun Life Assurance Co. of Canada v. Wells Fargo Bank, N.A., 2016 WL 5746352 (D.N.J. Sept. 30, 2016).
- Matthews v. Liberty Assignment Corp., No. S-150-CV0282983, 2016 Cal App. LEXIS 356 \* \_ (Cal. Ct. App. May 2, 2016);
- Moore, et al. v. EPS Settlements Group, et al., No. 14-CV-80521-COHN/SELTZER, 2015 WL 4775974 (S.D. Fla. Dec. 17, 2014).
- Sun Life Assurance Company of Canada v. U.S. Bank Nat'l. Assoc., et al., 2016 U.S. Dist. LEXIS 4732 (S.D. Fla. Jan. 13, 2016);
- Jackson v. Rohm & Haas Company, et al., 06-3682, 2007 U.S. Dist. LEXIS 65900 (E.D. of Pa., September 5, 2007);
- RegScan v. Brewer, et al., 04-6043, 2007 U.S. Dist. LEXIS 20087 (E.D. of Pa., March 16, 2007); and
- Lang v. Continental Assurance Company, et al., 2002 U.S. App. LEXIS 24586 (3d Cir., December 4, 2002);
- First England Funding, L.L.C. v. Aetna Life Insurance & Annuity Co., et al., 790 A.2d 243 (N.J. Super. 2002);
- 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);
- WebBank v. American General Annuity Service Corp., et al., 54 P.3d 1139 (Utah 2002);
- Vance Williams v. Nationwide Mutual Insurance Company, et al., 750 A.2d 881 (Pa. Super. 2000).

#### ***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 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 teams in multiple complex software defect, implementation, and licensing disputes.

#### ***Additional Matters of Note***

- Secured a unanimous ruling from the Supreme Court of the State of New Jersey that stranger-originated life insurance policies are void from inception under New Jersey law. In this case, the policy at issue was purchased by an individual with an insurable interest in the insured's life, but ownership was quickly transferred to strangers as per a prior agreement. The matter came to the state high court via certified questions from the U.S. Court of Appeals for the Third Circuit.
- Won summary judgment on behalf of the defendant-insurer in a material misrepresentation case in which the plaintiff beneficiary sought to collect on a \$1 million life insurance policy following the death of the insured. The federal district court found that the insurer client properly rescinded the policy based on the insured's misrepresentation on the policy application that he had not been

advised to discontinue alcohol use. Significantly, in reaching this ruling, the court held that the insurer did not waive its right to assert additional misrepresentations not specifically mentioned in the rescission letter.

- Secured a victory for the insurer in a viatical/stranger-originated life insurance policy dispute in which the insurer sought a declaration voiding the policy, and an investor in the policy filed a counterclaim seeking damages of approximately \$1.5 million. At the conclusion of the five-day bench trial, the court ruled in the insurer's favor on the claims and counterclaims, finding that the policy was void *ab initio* as an illegal human life wager and that the investor lacked an insurable interest.