

Jeffrey J. Chomko

Shareholder

JJChomko@mdwcg.com

Philadelphia – 215.575.2632



As a shareholder in the firm's Professional Liability Department, Jeffrey concentrates a significant portion of his practice in defending errors and omissions claims directed to insurance agents and brokers, investment professionals, real estate professionals, appraisers and home inspectors in the State and Federal Courts of Pennsylvania. He also represents these professionals before state securities and insurance commissions, real estate commissions, and other regulatory forums, including the Financial Industry Regulatory Authority (FINRA), and Commonwealth Regulatory Agencies. These matters involve licensure issues, administrative and regulatory litigation, and responding and defending against complaints and inquiries.

Jeffrey also defends funeral industry professionals, including funeral directors and cemeteries. Jeffrey has litigated bench and jury trials involving complex insurance, securities, commercial, real estate and burial disputes. He has represented insurance agents, securities brokers, real estate agents, title agents, home inspectors, banks, condominium boards, property management companies, and other commercial entities. He also has a strong background defending both general liability and casualty matters from the most basic to the most complex.

Jeffrey practices in both the state and federal courts of Pennsylvania, regularly representing clients in Pennsylvania State Courts, and the Federal District Court for the Eastern and Middle Districts of Pennsylvania. Jeffrey has entered PRO HAC VICE in multiple lawsuits in other jurisdictions, including Connecticut, Florida, Ohio, New Jersey, Delaware, and Virginia. He has a strong command of state and federal procedural rules and is well versed in the intricacies of local, state, and federal practice. In addition to litigating matters, he often utilizes the mediation and arbitration process to resolve complex disputes, including AAA Arbitration and through private mediators.

Throughout his career, Jeffrey has successfully litigated/handled hundreds of civil matters resulting in many defense verdicts, dismissals, or favorable settlements in both

Practices

- Insurance Agents & Brokers Liability
- Securities & Investments Professional Liability
- Real Estate E&O Liability
- Commercial Litigation
- Miscellaneous Professional Liability

judicial and non-judicial forums. As a former registered representative, his understanding of the workings of the financial services industry and markets, as well as his familiarity with all types of insurance and investment products, has enabled him to efficiently and effectively handle complex insurance and securities disputes. His knowledge of residential and commercial real estate and the burial industry also allows him to successfully litigate these matters.

A graduate of Villanova University and Boston College Law School, he frequently presents to clients and industry groups on insurance and real estate related issues. His most recent presentation was "Best Practices for Insurance Agents and Brokers."

Education

- Boston College Law School (J.D., 1988)
- Villanova University (B.A., 1984)

Admissions

- Pennsylvania, 1988
- U.S. District Court Eastern District of Pennsylvania, 2001
- U.S. District Court Middle District of Pennsylvania, 2001

Honors & Awards

- The Best Lawyers in America©, Insurance Law (2027)

Associations & Memberships

- Philadelphia Bar Association

Published Works

- "Protecting Yourself Against Professional Liability Lawsuits," *ICCFA Magazine*, publication of the International Cemetery, Cremation & Funeral Association, July 2016
- "Beware E & O Holes in Your Agency's Digital Efforts," *Independent Agent*, May 2014

Significant Representative Matters

- Successfully defended insurance agent in a Maryland Insurance Department investigation involving a customer complaint concerning the sale of life insurance policies. The complaint alleged the agent oversold life insurance to a couple who claimed the amount of insurance was excessive, unsuitable and unnecessary. Jeffrey was able to demonstrate to the regulators that the agent did a thorough job in explaining the need and purpose for the coverage, and that the couple could afford the coverage, and actually drove the decision to purchase the policies. They only changed their mind later, after the client was criticized by a subsequent insurance agent. Jeffrey also shut down a Certified Financial Planner Board investigation involving the same matter.
- Successfully gained dismissal of an action against an insurance agent in Wyoming County Pennsylvania on a matter involving the sale by an agent of a number of

mutual funds (IRA retirement funds). In this case, the plaintiff contended the mutual funds were excessive and unsuitable. Jeffrey convinced the trial court judge that plaintiff's counsel's lack of activity for several years on the case, and his failure to respond to long-outstanding discovery, warranted a full dismissal of the lawsuit.

- Defense verdict obtained on behalf of a registered investment advisor and broker-dealer following a four day jury trial in Schuylkill County. The registered investment advisor and broker dealer were sued by their former client for investment losses. The Plaintiff was a paraplegic whose wealth was obtained through a jury verdict and settlements related to his injuries. The case was defended on the basis that the registered investment advisor met the standard of care and did not breach any duties owed to the Plaintiff, as well as the fact that the Plaintiff was net profitable in his investments. The Plaintiff sought to "cherry pick" losing investments from an overall profitable portfolio.
- Represented and obtained dismissal of an insurance agent in the Philadelphia Court of Common Pleas in a matter involving an insurance policy the agent had sold to a professional hockey player. When the player's widow brought a claim for a breach of the standard of care, Jeffrey successfully argued that no duty was owed or breached.
- Obtained summary judgment in a binding arbitration on behalf of an insurance agent against a well-known Philadelphia restaurateur in a dispute involving the assessment of a co-insurance penalty. Successfully argued that the insured's own conduct barred him from obtaining recovery.
- Obtained summary judgement on behalf of an insurance agent and agency against a lawyer/plaintiff in a case involving the placement of coverage for a residential commercial property in Philadelphia. Successfully argued that no breach of contract claim was manifested.
- Successfully resolved a condominium dispute involving a resident who sued a condominium board and its individual officers in tort and contract, by establishing that the board acted properly in its management and oversight of the property.
- Successfully defended claims for declaratory, injunctive and monetary relief on behalf of a non-profit retirement organization by arguing that the entity acted properly in assisting its members in purchasing and residing in a Center City condominium, despite claims by existing residents that the organization's members should not be permitted to live there, due to advanced age. Successfully utilized a Human Relations Commission decision on behalf of the elderly residents to effectively bring an end to the civil litigation.
- Successfully argued that a policy of life insurance is not bound until the policy of insurance is actually delivered and is paid for by the policyholder.
- Successfully able to reduce and resolve multi-million dollar settlement demands down to less than a fraction of the damages claimed. In one instance, the demand was for \$1.6 million and was resolved for \$245,000. In another instance, the demand was for \$2.1 million and the case was resolved for \$160,000.
- Through the use of inspection, engineering, or construction experts, was able to resolve for pennies on the dollar cases with high exposure, including extra-contractual damage exposure.
- Successfully employed the use of appraisers, conduct experts, and cause and origin experts to resolve multiple matters involving potential exposure in excess of \$1 million for fractions of that amount.

Results

Defense Award Following Six-Week FINRA Hearing

We obtained a defense award on a six-week FINRA hearing where our client, a General Agent, faced an alleged defamation/conversion/wrongful termination claim. The claimants contended that our client not only wrongfully discharged them after discovering their involvement in a bank-owned life insurance transaction, but also converted their trails and commissions, and defamed them on their U-5 form published through FINRA BrokerCheck. Damages totaling \$15 million and punitive damages were sought by the three claimants. While the panel awarded \$8 million in damages against the firm they were affiliated with, we obtained a defense award on all counts and dismissal of all claims for punitive damages on behalf of our General Agent client.

Investigation Against Home Appraiser Shut Down by Defense

We successfully defended a home appraiser in a regulatory investigation undertaken by the Pennsylvania Commonwealth Bureau of Enforcement relating to the appraisal of a five-acre parcel of property. The complainant contended the valuation arrived at by the appraiser (as part of a divorce proceeding) was artificially low given the fact the parcel was sub-dividable. We convinced the investigator that the appraisal number arrived at was in line with comparable properties in the area, particularly given some of the ingress issues involved in accessing the property. After an in-person interview of the appraiser and submissions, the investigator elected to shut the investigation down and take no further action against the appraiser.

Successful Representation of Home Appraiser in Regulatory Investigation

The investigation was undertaken by the Pennsylvania Commonwealth Bureau of Enforcement relating to the appraisal of a five-acre parcel of property. The complainant contended the valuation arrived at by the appraiser (as part of a divorce proceeding) was artificially low given the fact the parcel was sub-dividable. We convinced the investigator that the appraisal number arrived at was in line with comparable properties in the area, particularly given some of the ingress issues involved in accessing the property. After an in-person interview of the appraiser and submissions, the investigator elected to shut the investigation down and take no further action against the appraiser.

Defense Shuts Down Investigation of Life Insurance Agent

We effectively shut down a Maryland Insurance Department investigation of a life insurance agent who was the subject of a customer complaint. The complaint alleged the agent oversold life insurance to a couple who contended the amount of insurance was excessive, unsuitable and unnecessary. We were able to demonstrate to the regulators that the agent did a thorough job in explaining the need and purpose for the coverage, and that the couple could afford the coverage and actually drove the decision to purchase the coverage, only changing their mind later, after the client was criticized by a subsequent insurance agent. We also defeated a Certified Financial Planner Board

investigation involving the same matter.

Dismissal of Lawsuit Against Insurance Agent

We successfully argued for the dismissal of an action in Wyoming County on a matter involving the sale by an agent of a number of mutual funds (with IRA retirement funds). In this case, the plaintiff contended the mutual funds were excessive and unsuitable. We convinced the trial court judge that plaintiff's counsel's lack of activity for several years on the case, and his failure to respond to long-outstanding discovery, warranted dismissal of the lawsuit.

Claims against real estate agent dismissed.

Our attorneys obtained dismissal of claims against a real estate agent arising from the agent's representation of a buyer in connection with the purchase of a home in Philadelphia. Following the purchase of the property, the buyer discovered numerous undisclosed issues with the home and commenced suit against the seller and the seller's agent. In turn, the seller's agent joined our client, the buyer's agent, alleging it was actually the buyer's agent who should be liable on the buyer's claims for negligence, violation of the Pennsylvania Seller's Disclosure Law, breach of contract, negligent representation and fraud. On preliminary objections, we argued that the plaintiff's conclusory allegations did not give rise to valid claims, that a buyer's agent cannot be liable under the Seller's Disclosure Law without actual knowledge of a material defect which was not disclosed, that the joinder complaint did not adequately allege that the buyer's agent made any misrepresentations, and that there were no allegations adequate to suggest the buyer's agent breached his statutory duties under the law. The Philadelphia Court of Common Pleas agreed, sustaining the preliminary objections and dismissing the joinder complaint.

Resolution of FINRA Matter

Resolved a FINRA matter involving four private placement investments for a portion of the costs. At issue were alleged losses exceeding \$200,000. Leveraging the panel's favorable decision on an earlier Motion for Eligibility (untimeliness), we convinced claimants' counsel of the futility of proceeding further. Claimants' counsel agreed to resolve the case for his filing costs only, split among three respondents.

Successful Defense of Financial Planning/Investment Firm

We were successful on a motion to dismiss an action against a financial planning and investment firm and its employee, a certified financial planner, filed in Federal District Court in Maryland. The plaintiffs claimed that the financial planner advised them to purchase a life insurance policy that was indexed to the stock market and that he made certain representations about the expected return on investment, which never came to fruition. Instead, according to the plaintiffs, the value of the policy plummeted, and they lost significantly on their investment. The court dismissed all claims against the firm, agreeing that the company could not be liable for the alleged advice given to the plaintiffs by the financial planner, inasmuch as the firm did not exist at the time the alleged advice was given. Also, the court dismissed a claim for breach of fiduciary duty against the financial planner, agreeing that both federal and state courts in Maryland do not

recognize a standalone cause of action for breach of fiduciary duty when only monetary damages are sought. As well, the court dismissed a conversion claim against the financial planner, concluding that the plaintiffs failed to allege sufficient facts to plausibly demonstrate the financial planner wrongfully exercised ownership or dominion over their finances.

Defense Verdict for Registered Investment Advisor and Securities Broker Dealer

Defense verdict after a four-day jury trial in northeastern Pennsylvania on behalf of a registered investment advisor and a securities broker dealer who were sued by their former client for investment losses in alternative investments.

Thought Leadership

December 1, 2022

On the Pulse...Our Real Estate E&O Liability Practice Group