



## **Brett D. Kahn**

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Insurance Recovery, Litigation & Counseling | Business Litigation | Cannabis | Life Sciences | Manufacturing

Brett Kahn litigates in multiple practice areas, and he seasons his practice by consulting with clients on day-to-day and strategic business transactions. He concentrates his practice on contractual and commercial litigation matters arising in state and federal court, and in domestic and international arbitrations. Brett specializes in contract disputes – in particular insurance coverage matters on behalf of policyholders – but he has successfully represented clients in litigation involving many different subject matters, including real estate, construction, services contracts, product liability, employment, benefits and title insurance. He also has transactional experience relating to insurance and healthcare matters, and he has advised clients on FDA compliance and SEC reporting issues.

Brett takes a pragmatic but shrewd approach to litigation, tailored to meet the business objectives of each case. He is a skilled negotiator who is able to recognize and capitalize on opportunities for clients to resolve matters without resorting to potentially disruptive litigation. However, when litigation is unavoidable, he has a strong track record of delivering exceptional results, including successful jury verdicts.

As an integral member of the firm's Insurance Recovery, Litigation & Counseling team, Brett has helped secure, through judgment and settlement, billions of dollars in insurance assets for a broad range of policyholder clients, including the nation's largest corporations and industrial concerns, mid-cap and small business entities, and individuals. His coverage experience includes analyses of general liability, professional liability, directors' and officers', errors and omissions, construction OCIP and CCIP wrap-ups, builders risk policies, crime and cyber liability policies, and fidelity bonds. He also counsels clients on pre-litigation, litigation and alternative dispute resolution options, guides policyholders on the structuring of their insurance programs and helps negotiate the terms of new and renewal policies to ensure favorable terms that benefit clients in the event of a claim.

As part of McCarter's Cannabis Industry Group, Brett continuously explores cannabis-related regulations and issues that may impact client business operations and future client endeavors.

## **Representative Matters**

### **Pro bono clients—Expungement of criminal records**

Served as pro bono counsel for several clients seeking expungement of criminal records, all successful.

### **Pro bono client—Pension case**

Served as pro bono counsel in a pension case before an administrative law judge during a multi-day plenary hearing and subsequent appellate proceedings before the New Jersey Superior Court, Appellate Division.

#### Professional liability insurance broker—Profit/loss sharing dispute

Successfully represented a professional liability insurance broker and managing general agent in profit/loss sharing dispute under agreements with a medical malpractice insurer.

#### Various hospitals—Merger due diligence

Performed due diligence on behalf of various hospitals in transactions involving mergers with other hospitals or into larger hospital systems as part of acquisitions.

#### Product manufacturer—Product liability litigation in federal court

Served as counsel for a product manufacturer in federal court litigation regarding a product liability dispute with a customer-hospital resulting in a favorable settlement.

#### Credit advance company—D&O insurance coverage dispute

Represented a credit advance company in a coverage dispute with D&O insurer resulting in coverage for policyholder.

#### Product manufacturer—Coverage counsel for sale of subsidiaries

Served as coverage counsel for a product manufacturer in relation to the sale of subsidiary companies in multiple transactions.

#### Healthcare credentialing company—Professional negligence litigation

Facilitated favorable settlement for a healthcare credentialing company in New York state court litigation involving professional negligence of a software vendor.

#### Global auto-manufacturer—Insurance coverage dispute

Served as counsel for a global auto-manufacturer in a coverage dispute requiring an expedited and successful negotiation of an insurer's contribution towards settlement in underlying litigation.

#### Property owners—Contract-related construction disputes

Represented property owners in various contract-related construction disputes culminating in favorable settlements.

#### Policyholders—Insurance recovery litigation

Served as counsel for multiple policyholders in successful coverage cases to recover for losses arising from alleged environmental damage at various sites across the country.

#### Company in the legal industry—Procured employee benefits

Procured benefits for a company in the legal industry and its employees under long-term disability benefits policies.

#### Large title insurance agency—Contract litigation

Served as counsel for a large title insurance agency in litigation regarding a contract dispute with former independent contractor that culminated in a successful jury verdict on all counts in New Jersey state court.

#### Agricultural product manufacturer—Insurance coverage litigation

Represented an agricultural product manufacturer in successful New Jersey state court coverage litigation against dozens of insurers with over \$100 million at stake.

## Global pharmaceutical company—Several successful insurance arbitrations

Served as counsel for a global pharmaceutical company in several successful insurance arbitrations before London tribunals with hundreds of millions of dollars in dispute.

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### Education

Rutgers Law School, JD, 2008

- Editor, *Rutgers Law Review*

University of Maryland, BS, *summa cum laude*, 2004

- Phi Beta Kappa

### Bar Admissions

New Jersey

New York

### Court Admissions

U.S. District Court, District of New Jersey

### Judicial Clerkships

#### Judicial Intern

The Hon. Donald S. Goldman, J.S.C. (ret.), New Jersey Superior Court

### Memberships & Certifications

#### New Jersey State Bar Association

Insurance Law Section, Past Chair

#### New York State Bar Association

## Recognitions

New Jersey Rising Star, *Super Lawyers*, 2015–2022

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## Alerts

Insurance Recovery, Litigation & Counseling Update, Insurance Recovery, Litigation & Counseling Update, 2.24.2021

UK Supreme Court Ruling Provides Sweeping Policyholder Relief for COVID-19 Business Interruption Losses, Insurance Recovery, Litigation, & Counseling Alert, 1.26.2021

A Tale of Two Policies: How Careful Interpretation Impacts Coverage Determinations, Insurance Recovery, Litigation & Counseling Alert, 1.26.2021

Courts Find Coverage for COVID-19 Business Interruption Losses, Insurance Recovery, Litigation & Counseling Alert, 10.28.2020

New Jersey Court Refuses to Dismiss Policyholders' COVID-Related Business Interruption Claims, Dealing a Blow to Insurer's Arguments That Such Claims Cannot Constitute Covered Loss Under a Property Policy, Insurance Recovery, Litigation & Counseling Alert, 9.16.2020

Michigan Trial Court's Recent Denial of Business Interruption Coverage Not Likely to Have Far Reach, Insurance Coverage Alert, 7.16.2020

Good News for Businesses Damaged During Riots: Insurance May Cover Your Losses, Insurance Recovery, Litigation & Counseling Alert, 5.16.2020

Pennsylvania Supreme Court Decision Can Assist Policyholders in Their Insurance Coverage Claims for COVID-19 Losses, Insurance Recovery, Litigation & Counseling Alert, 5.11.2020

Pennsylvania Senate Issues Bill That, If Passed, Will Require Insurers to Provide Broad Coverage for COVID-19-related Business Interruption Claims, Insurance Recovery, Litigation & Counseling Alert, 4.20.2020

New Jersey Offers Grace Period for Insurance Premium Payments, Insurance Recovery, Litigation & Counseling Alert, 4.13.2020

MA, NJ, NY, PA, LA and OH, Consider Legislation Clarifying that Business Interruption Coverage Applies to COVID-19 Claims, Coronavirus Legal Advisory, 4.10.2020

Does Your Contract Protect You from the Coronavirus?, Coronavirus Legal Advisory, 3.17.2020

USDA Increases Options for Organic Crop Coverage, Insurance Coverage Alert, 2.25.2016

## Articles

Six States Consider Extending Business Interruption Coverage to Coronavirus Claims, New Jersey Law Journal, 4.10.2020

The Initial Steps, Third Circuit Appellate Practice Manual, 3rd Edition, PBI Press, 1.12.2017

## Speaking Engagements

COVID-19 – An Insurance Discussion: Steps, Mis-Steps, Perceptions and the Future, New Jersey Chapter of the CPCU Society I-Day 2020, 10.16.2020

Reading Insurance Policies: Basic Concepts and Policy Interpretation, New Jersey State Bar Association Insurance Coverage Boot Camp, 11.6.2019

What Is Cyber Insurance and How Is the Market Responding?, New Jersey State Bar Association 2019 Annual Meeting and Convention, 5.16.2019

## Quoted

Greater Newark Fresh Air Fund Needs Your Help to Send Kids to Camp, NJ.com, 5.18.2017