

# Stevens & Lee

Powerful partnerships. Standout solutions.



## E. Thomas Henefer

Shareholder

e.thomas.henefer@stevenslee.com

Reading

Phone: 610.478.2223

## Areas of Focus

### Practice

ERISA, Employee Benefits and Executive Compensation  
ESOPs – Employee Stock Ownership Plans  
Health Care  
Litigation

### Industry

Health Care  
Insurance

Tom is Co-Chair of Stevens & Lee's Litigation Department. For over more than 30 years, Tom has dedicated his practice to achieving the best results for clients in general commercial and complex litigation matters with a particular focus on a wide array of ERISA disputes for clients in the life and disability insurance, financial services, and health care industries. Tom has extensive civil litigation and trial experience in federal and state courts in jurisdictions across the country and in representing clients in complex governmental investigations. He has argued numerous appeals before state and federal appellate courts, having argued many times before the Third Circuit in particular. His cases there have frequently involved significant ERISA issues, including one of the Third Circuit's leading ERISA preemption cases.

**Commercial and Complex Litigation:** Tom's exclusive focus on commercial and complex litigation has allowed him to deliver the highest level of service in a variety of commercial disputes, particularly in the legal fields and client industries where he focuses his practice.

**ERISA Litigation and Governmental Investigations:** ERISA matters have been a primary focus of Tom's practice for three decades. In recent years, he has handled significant lawsuits and governmental investigations concerning fiduciary conduct in the investment of pension plan assets and alleged prohibited transactions by fiduciaries and parties in interest in connection with pension plans, ESOPs and welfare benefit plans.

Tom has also represented clients in several ERISA class actions, including two ERISA class actions filed against a large health insurer. In both cases, Tom prevailed on motions to dismiss at the trial

court level and then by successfully defended the subsequent appeals before the Third Circuit.

Tom has tried to verdict ERISA claims involving plan mergers, “top hat” plans, alleged violations of ERISA’s reporting and disclosure requirements and alleged wrongful termination under ERISA Section 510. Over the past 25 years, Tom has also represented a variety of clients in several hundred denial-of-benefit disputes involving pension, disability, life insurance, health insurance and severance benefits.

Based on his expertise, clients frequently call on Tom to handle ERISA matters outside of Pennsylvania. In recent years, Tom has represented clients in ERISA matters not only in the mid-Atlantic region (including cases in Maryland, New York, New Jersey and Delaware) but also throughout the South, in the Midwest and on the West Coast, in states ranging from Florida to Alaska. For over a decade, Tom has served as national ERISA counsel for a trade association that sponsors large employee benefit plans for member organizations on a national level.

Tom has also handled a number of lengthy and complex Department of Labor investigations involving matters as diverse as allegations of prohibited transactions, alleged breach of fiduciary duty in the oversight of plan assets, ESOP valuation disputes and, in one case, theft of plan assets by a client’s independent contractor. He routinely counsels ERISA plans and their fiduciaries on ERISA compliance and similar matters.

**Life Insurance, Banks and Other Financial Institutions:** Tom has devoted a substantial portion of his practice to representing life insurers, banks and other financial institutions in commercial and complex litigation. His work in this industry has included assisting clients in defending complex market-conduct claims involving the sale of life insurance products including variable annuities, as well as counseling clients on investigations into insurance agent and/or customer fraud leading to rescission actions and proper reporting to government regulators.

**Health Care:** Tom has extensive experience representing clients in the health care industry, including representation of hospitals, long term care and skilled nursing providers and managed care organizations, in complex civil and criminal fraud and abuse matters. He has represented clients in several industry-wide investigations as well as provider-specific investigations, including a federal grand jury investigation under the federal Anti-Kickback Act and numerous civil False Claims Act investigations.

## Relevant Experience

### Commercial and Complex Litigation

- Combining his expertise in ERISA and health care matters to successfully try significant monetary claims on behalf of a large ERISA plan against its former pharmacy benefit manager
- Combining his commercial litigation skills and knowledge of the insurance industry to represent life insurers and health insurers in disputes with brokers and agents over distribution agreements and termination of agency relationships, including both injunction matters and complex litigation over alleged damages
- Combining his experience with litigation over merger and acquisition transaction disputes with his focus on the health care industry to successfully try a dispute involving significant monetary claims arising out of the sale of a home health care agency’s assets in a bankruptcy court adversarial proceeding

## Life Insurance, Banks and Other Financial Institutions

- Representing banks and investment managers in financially significant and legally complex disputes arising out of the management of investment portfolios maintained by customers in connection with their funding obligations for employee benefit plans
- Representing life insurance clients in disputes over separate account investments in employer-owned group contracts (i.e., “COLI” / “BOLI” policies).
- Representing life insurance clients in complex litigation and pre-litigation disputes over market-conduct claims arising out of the sale of life insurance products.
- Assisting life insurance clients in investigations of possible fraud by insurance agents and/or customers.
- Representing a large insurance company in complex litigation over a Bank Owned Life Insurance (BOLI) policy and related third-party derivative financial instruments
- Representing life insurers in market conduct related disputes arising out of the sale of life insurance and annuity products
- Representing a large life insurance company in several internal investigations into agent fraud leading to Special Investigation Unit (“SIU”) referrals to State Insurance Departments and/or Attorneys General
- Representing a life insurance company in a customer dispute over group annuity contracts used as investment vehicles for municipal retirement plans
- Representing life and disability insurance companies in a variety of non-ERISA customer disputes ranging from breach of contract and bad faith claims by customers to rescission claims by insurers arising out of customer fraud and misrepresentations

## Affiliations

- Berks County Bar Association, Former Chair of United Way Committee
- Lancaster County Bar Association
- Pennsylvania Bar Association
- American Bar Association

## Recognition

- Tom’s commitment to delivering client-focused, superior legal services is reflected by his AV® Preeminent™ rating by LexisNexis Martindale-Hubbell, which is the highest rating for legal ability and general ethics.

## Education

- Villanova University School of Law, J.D.
- Washington & Jefferson College, B.A.

## Bar Admissions

- Pennsylvania