

LEGAL UPDATE

[Eckman v. Erie Insurance Exchange](#)

May 2, 2011

Insurers Still Retain the Right to Select Counsel Even After Issuing a Reservation of Rights



When an insurer issues a reservation of rights and then appoints counsel to defend the insured, the insured's personal counsel often contends that appointed counsel is "beholden" to the insurer and, therefore, could conceivably fashion a defense to deprive the insured of coverage. A "remedy" suggested from time to time -- and adopted in some other states -- is that in such circumstances the insured should be permitted to select counsel and send the bill to the insurer.

That has not been the law in Pennsylvania to date. A recent Superior Court opinion, [Eckman v. Erie Insurance Exchange](#), reiterates that Pennsylvania law does not require an insurer to so proceed. The decision affirmed a trial court's ruling refusing to grant the insured a preliminary injunction which would have required that the insurer permit the insured to appoint counsel. The court noted that appointed counsel has ethical obligations to the insured to protect his or her best interests and refuses to presume that appointed counsel will simply choose to disregard those obligations.



Should you have any questions about the opinion, please feel free to contact me at 215-665-3400 or bricklin@bbs-law.com.

Very truly yours,

/s/ Louis E. Bricklin

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If you would like to receive future updates via email, please contact Lesa DeCarlo at 215-665-3319, decarlo@bbs-law.com.

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