



PARTNER

BRETT E. NELSON

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Indianapolis

## PRACTICES

BUSINESS

COVID-19 RESOURCES AND  
INFORMATION

ENVIRONMENTAL

INSURANCE COVERAGE

LITIGATION

## INDUSTRIES

AGRIBUSINESS

EDUCATION & SCHOOLS

ENERGY & UTILITIES

HEALTH CARE & LIFE  
SCIENCES

INDIVIDUALS & CLOSELY  
HELD BUSINESSES

MANUFACTURING

MUNICIPALITIES &  
GOVERNMENT

NONPROFIT & RELIGIOUS  
ORGANIZATIONS

PETROLEUM MARKETERS

REAL ESTATE  
DEVELOPMENT &  
CONSTRUCTION  
TECHNOLOGY

## OVERVIEW

Brett is an experienced trial and appellate lawyer with a particular interest in technical and complex litigation. He represents clients in a broad range of environmental, insurance coverage & recovery, construction, and commercial and intellectual property disputes. His practice also includes copyright and trademark prosecution/registration and property tax litigation. Clients range from individuals and small companies to Fortune 250 companies.

Favorite representations include helping a dying, retired bus driver obtain his disability pension and preserve it for his widow; requiring a client's competitor to compete on a level playing field by complying with the Clean Air Act in the manufacture of an aerosol product and establishing a competitor's right to recover attorney fees in bringing a successful citizen's suit under the Clean Air Act. Brett's cases include numerous successful resolutions of claims on behalf of policyholders and other insureds for environmental, property, liability and errors and omissions claims both before and after trial.

## AWARDS

- 2016-2024, Listed in *Best Lawyers in America*®
- 2016-2024, Selected for inclusion in *Indiana Super Lawyers* – Insurance Coverage
- 2014-2015, Selected for inclusion in *Indiana Super Lawyers* – Environmental Litigation
- 2022, Recognized by [Premier Appellate Lawyers](#) as a Leading Appellate Lawyer in Indianapolis



## WASTE SERVICES

- 2022, Recognized by [The Tax Lawyers](#) for the State of Indiana

## EDUCATION

- J.D., 1999, *cum laude*, Indiana University – Bloomington, Maurer School of Law
- B.S., 1992, Biology, Indiana University – Bloomington

## BAR ADMISSIONS

- State of Indiana, 2000
- United States District Court for the Northern District of Indiana, 2000
- United States District Court for the Southern District of Indiana, 2000
- United States Patent & Trademark Office, 2001
- United States Court of Appeals for the Seventh Circuit, 2004
- United States Court of Appeals for the Tenth Circuit, 2006
- United States District Ct., District of Maryland, 2020
- Supreme Court of the United States, 2009

## EXPERIENCE

- *Meijer Stores Limited Partnership v. Boone County Assessor* (Petition Nos.: 06-021-14-1-4-10237-15, 06-005-15-1-4-01987-17, 06-005-16-1-4-01988-17 & 06-005-17-1-4-02182-17, Ind. Bd of Tax Rev. (Aug. 28, 2019)). Lead counsel for the Boone County Assessor, who prevailed in appeal filed in property tax appeal for a Big Box Store (affirmed, Indiana Tax Court, 19T-TA-00030, Dec. 31, 2020).
- *Richardson's RV v. Indiana Dep't. of State Rev.* 112 N.E.3d 192 (Ind. 2018). This case involved an RV dealer in Northern Indiana that thought it could avoid paying Indiana sales tax if it took RVs it sold to certain out-of-state customers into Michigan before handing over the keys. On Petition for Review, the Indiana Supreme Court reversed the Tax Court decision (80 N.E.3<sup>rd</sup> 292, Tax Court 2017) that granted summary judgment for Richardson's RV and, instead, entered judgment in favor of the Indiana Dept. of State Rev. The Supreme Court also remanded the case to the Tax Court for a determination of the amount of Tax owed by Richardson's RV.
- *Massa Capital LLC v. Mosh Rudich et al.* Secured summary judgment awarding damages and interest for Massa Capital in the amount of \$1,750,000 in principal plus interest and late fees for a total of \$2,151,100 with daily accruals in the amount of \$1,225 until all principal has been paid. In addition, the Court found defendants liable for \$49,863.89 in attorney fees. Time spent from start to finish was less than 6 months. (Marion County Indiana Superior Court, Case No. 49D01-1909-CC-037608, March 3, 2022)



- *TBD Capital LLC v. Seneca Ins. Co.*, Case No. 49D02-1309-PL-034683 slip op. (Marion Co. Superior Ct., Sept. 21, 2012) (\$2.3M Judgment in favor of mortgage holder under first party property policy. Insurer denied claim based on alleged fraud in the application for insurance. Judgment included \$1.2 M in attorney fees for insurer's unreasonable litigation).
- *SAMS Hotel Group LLC d/b/a Homewood Suites Hotel v. Auto Owners Ins. Co.*, Cause No. 49D14-0910-PL-049045 (Marion Co. Superior Ct., Sept. 21, 2012) (Summary judgment order holding that insurance and "waiver of subrogation" provisions of AIA General Conditions to AIA agreement between Owner and Contractor do not preclude claims against subcontractor who signed non-AIA contract).
- *The Netherlands Ins. Co. v. Triplett Striping, Inc.*, 2012 U.S. Dist. LEXIS 26966 (W. D. Ky. Feb. 29, 2012) (Order dismissing first-filed federal declaratory judgment action regarding insurance coverage for pollution claim in favor of later-filed Indiana state court action based on doctrine of abstention).
- *English Ave. Props., LLC v. Gillette Co.*, Cause No. 49F12-0401-PL-00001 (Marion Co. Superior Ct., June 17, 2011) (Summary judgment order holding ten-year statute of limitations applies to claims under Indiana's Environmental Legal Action and Illegal Dumping statutes).
- *Pound v. Airosol Co., Inc.*, 498 F.3d 1089, (10th Cir. 2007) (Addressing penalty and attorney fee issues in the context of a Clean Air Act citizen's suit brought by a competitor and holding that a successful plaintiff is entitled to an award of attorney fees).
- *Raybestos Prods. Co. v. Ind. Dep't. Env'tl. Mgmt.*, Cause No. 49D12-0209-PL-001553 (Marion Co. Superior Ct., Judgment Entries following bench trial dated June 12 & Oct. 30, 2006) awarding \$16,363,012.91 for damages incurred by manufacturer in performing cleanup in excess of the costs of the risk-based cleanup mandated by agreed order between manufacturer and IDEM (*reversed by Ind. Dept. Env'tl. Mgmt. v. Raybestos Prods. Co.*, 897 N.E.2d 469 (Ind. 2008), *reh'g* granted, in part, by *Ind. Dep't of Env'tl. Mgmt. v. Raybestos Prods. Co.*, 903 N.E.2d 471 (Ind. 2009) (correcting misstatement of standard of review applicable to administrative review of agency actions), *cert. denied*, *Raybestos Prods. Co. v. Ind. Dep't of Env'tl. Mgmt.*, 130 S. Ct. 196 (U.S. 2009)).
- *Lummis v. State Farm Fire & Cas. Co.*, Cause No. 1:04cv0080 DFH-VSS (S.D. Ind., Dec. 14, 2005) (Jury verdict awarding policyholder damages for insurer's improper failure to pay fire loss claim).
- *Pound v. Airosol Co., Inc.*, 316 F. Supp. 2d 1079 (D. Kan. 2004) (Summary judgment order holding manufacturer and sellers of aerosol pesticide violated the Clean Air Act through illegal use of HCFCs).

## AFFILIATIONS

### PROFESSIONAL AFFILIATIONS



- Member, Indiana State Bar Association, Appellate Practice, Environmental Law, Litigation and Intellectual Property Sections
- Chair, Indiana State Bar Association, Intellectual Property Section (2004-2005)
- Member, Indianapolis Bar Association, Appellate Practice, Litigation, Insurance Coverage and Tax Litigation, and Environmental Law Sections
- Member, American Bar Association, Section of Litigation; Insurance Coverage Litigation Committee and Construction Litigation Committee

## COMMUNITY AFFILIATIONS

- Member, Board of Directors, Paws and Think, Inc. 2014 – 2017 (President 2015-2017) and June 2020 – Present
- Member, Bloomington Bicycle Club, 2012 – present (Grants Committee Chair 2013 – 2017)
- Member, United State Parachute Association, 2004 – 2019; February 2022 to Present

## ARTICLES & EVENTS

- 2015 | Speaking Engagement  
Speaker, “Environmental Insurance Coverage – Case Law Update” Indiana State Bar Association Annual Meeting. Sponsored by the Environmental Law Section
- 2009 | Publication  
Author, “Indiana Supreme Court Decision Emphasizes Importance of Prompt Notice to Insurance Carriers,” Indiana State Bar Association Environmental Law Section Newsletter, Fall 2009
- 2004 | Publication  
Author, “Venomous Reptiles and the Law,” Reptiles Magazine, September 2004, Vol. 30
- 2004 | Publication  
Author and Speaker, “Endangered Species Regulations and How They Impact the Utility Industry,” International Right of Way Association Environmental Seminars
- 2002 | Publication  
Author and Speaker, “Endangered Species Regulations and How They Impact the Utility Industry,” International Right of Way Association Environmental Seminars
- 2001 | Publication  
Author, “Recent Developments in the Seventh Circuit Impacting the Litigation and



## Funding of Complex Environmental Matters,” ICLEF Seventh Circuit Roundup