



Of Squares and Rectangles: The Fiduciary Standard Imposed on Insurance Brokers, Both Problem and Answer, New Jersey Law Journal

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The application of the Consumer Fraud Act to professionals who are held to a similar fiduciary standard as lawyers and doctors does not square.

November 27, 2019 | New Jersey Law Journal

*Every square is a rectangle, but not every rectangle is a square. That was the theme of the article *Professional Negligence vs. Breach of Fiduciary Duty in Insurance Broker Malpractice Actions*, NJLJ Jan. 11, 2019), wherein it was explained that not every claim for professional negligence against an insurance broker is a claim for breach of fiduciary duty. While both claims are rectangles, they don't always square.*

*Since the article, two major events occurred that changed the contours of insurance producer liability in New Jersey. First, on Feb. 25, 2019, the state legislature unanimously passed Senate Bill No. 2475 (the "Bill"), which prohibited claims for breach of fiduciary duty against insurance producers acting in their professional capacity, unless a claim was made for wrongful retention or misappropriation of funds. However, the governor's office objected to the elimination of the fiduciary standard and, as a result, it was conditionally vetoed. Second, in August 2019, the Appellate Division decided *Shaw v. Shand*, A-5686-17T1 (App. Div. Aug. 15, 2019).*