



Anthony R. Holtzman

Partner

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OVERVIEW

Anthony Holtzman's practice is focused on constitutional law, environmental law, appellate litigation, utilities law, gaming law, and commercial litigation.

Anthony regularly represents private and public sector clients, including legislative bodies and legislators, on issues of Pennsylvania and federal constitutional law. He has significant experience with the Pennsylvania Constitution's Bill of Rights, including Article I, Section 27 (the "Environmental Rights Amendment"), along with its provisions regarding the structure and powers of the Pennsylvania General Assembly and requirements for the enactment of legislation. On the federal side, he has represented clients with regard to First Amendment, Second Amendment, Tenth Amendment, Eleventh Amendment, dormant Commerce Clause, Takings Clause, Elections Clause, Equal Protection Clause, and Speech or Debate Clause issues, among others.

In addition to his constitutional law activities, Anthony regularly represents industry clients, including oil and gas production companies, pipeline operators, electricity generators, and trade associations, in litigation matters that involve agency enforcement activities, challenges to statutes and regulations, allegations of water and surface contamination, property rights disputes, deed and contract interpretation issues, challenges to permits, and issues that arise under freedom of information laws. He also advises industry clients on a broad range of Pennsylvania and federal environmental regulatory compliance issues.

Anthony, moreover, advises clients on Pennsylvania utilities and alternative energy law compliance issues.

He also advises gaming industry clients with regard to federal and state laws that apply to Internet gaming, sports wagering, and lottery activities.

Anthony has argued cases before the U.S. Court of Appeals for the Third Circuit, the Pennsylvania Supreme Court, the Commonwealth Court of Pennsylvania, various Pennsylvania and federal trial courts, and the Pennsylvania Environmental Hearing Board – including *en banc* arguments before the Third Circuit, Commonwealth Court, and EHB.

Beyond practicing law, Anthony routinely lectures on principles of constitutional law, environmental law, statutory construction, and gambling law. For example, he has delivered a number of presentations at the Pennsylvania

Bar Institute's Legislative Update program and Environmental Law Forum. Also, he has authored or co-authored more than 70 scholarly articles and book chapters in the past decade.

PROFESSIONAL BACKGROUND

Prior to joining K&L Gates, Anthony served as a law clerk at the Pennsylvania Higher Education Assistance Agency. He also served as a legal intern at a small law firm in Carlisle, Pennsylvania.

PROFESSIONAL / CIVIC ACTIVITIES

- American, Pennsylvania, and Dauphin County Bar Associations
- Messiah University President's Leadership Council
- Messiah University Law Professionals Council
- Penn State Dickinson Law mentoring program
- Youth assistant soccer coach

EDUCATION

- J.D., Dickinson School of Law of The Pennsylvania State University, 2005 (*summa cum laude*; *John Maher Scholarship*; *Thomas A. Beckley Prize for Legal Writing*; *Board of Governors' Awards*; *Woolsack Society*; *Penn State Law Review*)
- B.A., Messiah College, 2002 (*summa cum laude*; *honors in Politics*)

ADMISSIONS

- Bar of Pennsylvania
- Supreme Court of the United States
- United States Court of Appeals for the Third Circuit
- United States District Court for the Eastern District of Pennsylvania
- United States District Court for the Middle District of Pennsylvania
- United States District Court for the Western District of Pennsylvania

THOUGHT LEADERSHIP POWERED BY HUB

- 27 January 2021, Sports and Only Sports: 1st Circuit Addresses Scope of the Wire Act
- 21 April 2020, COVID-19: Pennsylvania - Executive Order on PPE and Medical Supplies

- 30 January 2020, Capturing It if You Can: Pennsylvania Supreme Court Addresses the Interplay Between Hydraulic Fracturing and the Rule of Capture
- 18 May 2018, Supreme Court Strikes Down Ban on Sports Wagering
- 18 September 2017, Fourth Circuit Concludes that West Virginia State Law Preempts Local Ordinance Banning Oil and Natural Gas Wastewater Storage
- 11 July 2017, Pennsylvania Supreme Court Issues Transformative Decision in Environmental Rights Amendment Case
- 15 June 2017, To Disclose or Not to Disclose? D.C. Circuit Resolves Clash Between FOIA's Exemption 4 and Section 308 of the Clean Water Act
- 19 August 2016, Uncorked: Act 39 of 2016 Expands Wine Sales in Pennsylvania
- 20 May 2016, Full Court Press: EPA Issues Final Rulemakings and a Draft Information Collection Request in Its Ongoing Effort to Reduce Methane Emissions from the Oil and Gas Industry
- 27 January 2016, The Beat Goes On: Pennsylvania Takes Aim at Reducing Methane Emissions from the Oil and Gas Industry
- 18 September 2015, EPA Publishes Regulatory Proposals that Would Further Curb Methane and VOC Emissions from the Oil and Gas Sector
- 2 July 2015, Guidance on Guidance: The Pennsylvania Department of Environmental Protection's Interim Final Policy for Development and Publication of Technical Guidance Documents
- Spring 2015, Environmental Policy Quarterly
- 6 May 2015, Bats in the Balance: Northern Long-Eared Bat Listing and Interim 4(d) Rule

OTHER PUBLICATIONS

- "Act 42 of 2017 Authorises Online Gambling in Pennsylvania," *Online Gambling Lawyer*, 20 November 2017
- "Pennsylvania: Latest Efforts to Legalise i-gaming in the Keystone State," *Online Gambling Lawyer Magazine*, February 2017
- "Pennsylvania's latest hope for regulated in-state i-gaming," *World Online Gambling Law*, July 2016
- "Environmental and Health Issues in Unconventional Oil and Gas Development," Chapter 6 – A Primer on Litigation That Involves Alleged Water Well Contamination From Hydraulic Fracturing, *Elsevier Inc.*, December 2015
- "Fresh Hope for Pennsylvania as Bill Passes Committee," *World Online Gambling Law Report*, December 2015
- "Pennsylvania: A New Bill, Another Hearing," *iGamingBusiness North America*, June/July 2015

- "Bodog: Protecting Internet Domains From Patent Claims," *World Online Gambling Law Report*, October 2007
- "First Amendment: Religion is Religion is Religion," *York Sunday News*, October 2007
- "Case Law Update," *Pennsylvania Bar Institute's Legislative Process Seminar*, September 2007
- "U.S. Criminal Jurisdiction: Foreign-Based Operators," *World Online Gambling Law Report*, June 2007
- "Legislative Mens Rea in Constitutional Challenges to Statutes," presented at the *Pennsylvania Bar Institute's Legislative Process Seminar*, September 2006
- "Dover ID Case: Judge Made Errors of Law and Science," *York Sunday News*, April 2006
- "Juvenile Justice? The Increased Propensity for Juvenile Transfer to the Criminal Court System in Pennsylvania and the Need for a Revised Approach to Juvenile Offenders," *Penn State Law Review*, Fall 2004

AREAS OF FOCUS

- Environment, Land, and Natural Resources
- Appellate Litigation
- Commercial Disputes
- Oil and Gas

INDUSTRIES

- Betting and Gaming
- Consumer Products

REPRESENTATIVE EXPERIENCE

- In the United States Supreme Court, helped to represent the Pennsylvania Senate's Majority Leader and Republican Caucus in filing an amicus brief in which they argued for a reversal of a North Carolina Supreme Court decision to throw out a legislatively-drawn congressional district map and replace it with one that the state's judiciary drafted. In the amicus brief, the Majority Leader and Republican Caucus discussed Pennsylvania's recent redistricting history and illustrated some of the anti-democratic consequences that can occur when state court justices take on the role of drawing congressional districts, which is a role that the US Constitution gives to state legislatures. See *Moore v. Harper*, 143 S.Ct. 2065 (2023).
- Convinced the US Court of Appeals for the Third Circuit – sitting en banc – to rule in a client's favor in an appeal involving novel Sixth and Fourteenth Amendment issues that arose out of a judge's factfinding at a sentencing hearing. See *Garrus v. Sec'y of the Pa. Dep't of Corr.*, 694 F.3d 394 (3d Cir. 2012).

- In the Pennsylvania Supreme Court, successfully helped to represent the President *pro tempore* and Majority Leader of the Pennsylvania Senate in a case in which, due to an impasse between the state's General Assembly and Governor, the court had to select a congressional district plan from among various options that the parties and amici had submitted to it. See *Carter v. Chapman*, 270 A.3d 444 (Pa. 2022).
- In the Pennsylvania Supreme Court, successfully helped to represent bi-partisan leadership of the Pennsylvania Senate in asserting that, under the Pennsylvania Constitution, the Governor's line item vetoes in an appropriations bill and amendments to the state's Fiscal Code were ineffective. See *Scarnati v. Wolf*, 173 A.3d 1110 (Pa. 2017).
- In the Pennsylvania Supreme Court, successfully helped to defend the President *pro tempore* and Majority Leader of the Pennsylvania Senate against a constitutional challenge to legislators' receipt of certain employment and other benefits. See *Stilp v. Commonwealth*, 974 A.2d 491 (Pa. 2009).
- In the Commonwealth Court of Pennsylvania, helped to represent the President *pro tempore* of the Pennsylvania Senate in a case in which she and other Pennsylvania officials and agencies were sued on grounds that the Commonwealth's system for funding public education violated the Education Clause and equal protection principles in the Pennsylvania Constitution. Although the President *pro tempore* did not prevail, the Commonwealth Court credited her legal team for zealously and effectively advocating for her in a matter that involved numerous issues of first impression and one of the longest and most complex trials in the court's history. See *William Penn Sch. Dist. v. Pa. Dep't of Educ.*, 294 A.3d 537 (Pa. Cmwlth. Ct. 2023).
- In the Commonwealth Court, successfully helped to represent the President *pro tempore* of the Pennsylvania Senate against a challenge to statutory provisions that preempt local gun control measures. See *Crawford v. Commonwealth*, 277 A.3d 649 (Pa. Cmwlth. Ct. 2022).
- In the Commonwealth Court, successfully helped to defend the Pennsylvania Senate against a challenge to the General Assembly's decision to refrain from enacting legislation that would have authorized local firearms ordinances. See *Clarke v. House of Representatives*, 957 A.2d 361 (Pa. Cmwlth. Ct. 2008).
- In the Commonwealth Court, successfully helped to defend the Pennsylvania Senate and its President *pro tempore* against a challenge to a statute that authorized the sale of a recreational park to a private entity for private use. See *Pilchesky v. Rendell*, 932 A.2d 287 (Pa. Cmwlth. Ct. 2007).
- Helped to represent the Majority Leader of the Pennsylvania Senate in her role as a member of the 2021 Pennsylvania Legislative Reapportionment Commission, which crafted and adopted the 2021 Reapportionment Plan for the Pennsylvania Senate and Pennsylvania House of Representatives.
- In the US District Court for the District of New Jersey, successfully helped to represent two gas well operators in securing the dismissal of a lawsuit regarding the Delaware River Basin Commission's approvals for five of their exploratory gas wells. See *Delaware Riverkeeper Network v. Delaware River Basin Commission*, 2012 WL 3638699 (D.N.J. Aug 22, 2012).
- Extensive experience in providing environmental regulatory counsel to (i) oil and gas exploration and production companies that develop unconventional resources, (ii) developers of significant transmission infrastructure in the Appalachian Basin, and (iii) major industry trade associations.

- Extensive experience in representing a natural gas transmission company in connection with protecting pipelines from mining-related ground subsidence.
- Extensive experience in advising clients on regulatory compliance issues that arise under Pennsylvania's Public Utility Code and the Pennsylvania Alternative Energy Portfolio Standards Act.
- Extensive experience in advising gaming operators and suppliers with regard to federal and state statutes, including criminal anti-gambling statutes that apply to internet gaming, sports wagering, and lottery activities.