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**JOHN P. MILLER****AREAS OF PRACTICE**

Mr. Miller's practice focuses on complex trial and litigation matters involving construction, energy, product liability, insurance, and commercial disputes. He represents owners/developers, design-builders, engineering, procurement and construction (EPC) contractors, general contractors, subcontractors, suppliers, manufacturers, and design professionals. Mr. Miller also advises clients in the contracting and documentation phase of projects, including dispute avoidance and claim preparation and payment and lien disputes. He has been involved on major industrial and commercial projects, including a wind farm, polymer chemical plant, pipeline and gas gathering system, apartment complex, mid-rise condominium, petrochemical complex, and wine glass bottle manufacturing plant.

**PROFESSIONAL BACKGROUND**

- Partner, Dingess, Foster, Luciana, Davidson & Chleboski LLP, 2019 - Present
- Associate, Dingess, Foster, Luciana, Davidson & Chleboski LLP, 2017 - 2019
- Jones Day, 2007 - 2017
- Dewey & LeBoeuf LLP (formerly LeBoeuf, Lamb, Greene & MacRae LLP), 2003 - 2007

**PRESENTATIONS**

- Presenter, "Legal and Practical Consequences of Engineering Defects and Failures," PDH Boot Camp presented by The Engineers' Society of Western Pennsylvania and the Pittsburgh Section of the American Society of Civil Engineers, Pittsburgh, PA, August 24, 2017
- Co-presenter, "2014 Speaker Series: Energy and Construction Law Update," Jones Day, Pittsburgh, PA, May 20, 2014

- Co-presenter, "Oil and Gas Litigation Trends and the Impact on Marcellus and Utica Shale Activities," YPE Energy Industry Training Series, Washington, PA, August 29, 2013
- Co-presenter, "Shale 101: Introduction to Business and Legal Developments in the Appalachian Basin," Jones Day, Pittsburgh, Pennsylvania, February 7 - 8, 2013

## **PUBLICATIONS**

- Co-author, "Ohio Supreme Court Decision Clarifies Mineral Rights in Utica and Marcellus Shale Plays," *Jones Day Commentary*, October 2016
- Co-author, "No Implied Duty for Operators to Develop "Each Economically Exploitable Strata," Says Pennsylvania Superior Court," *Jones Day Commentary*, July 2013
- Co-author, "Pennsylvania Oil and Gas Lease Act Enhances Royalty Transparency and Authorizes Limited Contiguous Lease Integration," *Jones Day Commentary*, July 2013
- Co-author, "Pennsylvania Supreme Court Resolves Marcellus Shale Ownership and Lease Uncertainty by Reaffirming Longtime Dunham Rule," *Jones Day Commentary*, April 2013
- Co-author, "Dormant Minerals Acts and the Marcellus and Utica Shale Plays," *Jones Day Commentary*, April 2013
- Co-author, "Trends in Prompt Payment Acts Governing Private Construction Contracts," *Jones Day Commentary*, March 2013

## **PROFESSIONAL/CIVIL ACTIVITIES**

- American Bar Association, Forum on Construction Law and Section of Litigation
- Pennsylvania Bar Association, Civil Litigation Section
- Allegheny County Bar Association, Construction Law Section and Civil Litigation Section

## **COURT ADMISSIONS**

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

## **BAR MEMBERSHIPS**

Pennsylvania

## **EDUCATION**

J.D., Duquesne University School of Law, Pittsburgh, PA, 2003 (*Cum Laude*; Research Editor, *Duquesne Law Review*; Web Editor, *Juris Magazine*)

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M.S. (Library Science), The Catholic University of America, Washington, DC, 1997  
B.A. (History), The George Washington University, Washington, DC, 1996

## **REPRESENTATIVE ENGAGEMENTS**

- Counsel for a construction manager in a federal court action against a curtain wall manufacturer in connection with the construction of a residential tower in Philadelphia, Pennsylvania. The construction manager sought costs and expenses related to delays caused by late design, production, fabrication and installation of the curtain wall system. Certain subcontractors entered into a liquidating agreement with the construction manager and also sought costs and expenses in the same action.
- Counsel for the owner of a 9,000 acre wind farm consisting of 88 wind turbines in Wyoming County, Pennsylvania in a state court action. The balance of plant contractor claimed over \$56 million in damages related to delays, scope changes, forced inefficiencies, and unforeseen subsurface conditions and the owner claimed over \$19 million in delay liquidated damages under the contract.
- Counsel for a general contractor in a state court action and mechanic's lien claim against the owner in connection with the construction of a natural gas compression facility in Wetzel County, West Virginia. The general contractor sought the unpaid contract balance, delay, impact and inefficiency costs related to erosion and sediment control issues on the site and a time extension for the owner-caused delay. The dispute also involved similar claims by certain subcontractors.
- Counsel for a design professional in an American Arbitration Association (AAA) arbitration in connection with unpaid professional fees and expenses and an owner's claim for defective work performed on the design and construction of a polymer chemical plant in Marietta, Ohio. The owner asserted a multimillion dollar claim against our client for breach of contract and professional negligence. There was also a dispute relating to the disputed terms of the engineering and procurement contract.
- Counsel for an EPC contractor in a federal court action against the general contractor, owner and surety company for unpaid fees and expenses in connection with the construction of a natural gas compression facility in Wetzel County, West Virginia. The representation also included a separate state court action and mechanic's lien claim against the owner and general contractor.
- Counsel for an EPC contractor in a federal court action against a subcontractor that failed to perform timber clearing in connection with the construction and installation of a natural gas pipeline in West Virginia.

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- Counsel for an exploration and production (E&P) company in a AAA arbitration in connection with a contract dispute with a midstream company regarding the design, engineering, and construction of gas gathering and processing facilities servicing certain wells in Ohio and West Virginia, as well as the design, engineering, and potential future construction of a pipeline.
  - Counsel for a light gauge structural framing subcontractor in a AAA mediation related to the construction of a mid-rise condominium complex in Seattle, Washington. The subcontractor claimed the general contractor failed to pay in the entire contract price and caused delay of and interference with the subcontractor's work on the project. The general contractor alleged that the subcontractor caused delay, interference and impact on other subcontractors on the project.
  - Counsel for a general contractor in a payment dispute with the owner of a manufacturing facility in Pittsburgh, Pennsylvania including a mechanics' lien claim, judgment execution, and an award of injunctive relief.
  - Counsel for the owner of a wine glass bottle manufacturing plant in Cowlitz County, Washington, which at the time included the world's largest electric melter, in a AAA mediation in connection with disputes against the EPC contractor. There was a catastrophic failure of the electric melter that gave rise to construction and design defect claims. In addition, there were other construction and design defect claims against the EPC contractor unrelated to the electric melter failure.
  - Counsel for a contractor and construction manager in a state court and federal action claiming unpaid fees and expenses from a restaurant owner in Monroeville, Pennsylvania including an award of the contract balance, attorney's fees and penalties, judgment execution, and a proof of claim in bankruptcy.
  - Counsel for a manufacturer of science-based nutritional health products in connection with foundation and waterproofing membrane system repairs at its Pittsburgh, Pennsylvania facility. The representation involved claims against the owner of the facility, the commercial general liability insurer and the contractor related to the repairs.
  - Counsel for an engineering contractor in connection with a mechanics' lien claim for unpaid fees and expenses from an owner of gasifier in Vigo County, Indiana.
  - Counsel for a landlord-developer in Pittsburgh, Pennsylvania in a state and federal court action and mediation relating to a dispute with a restaurant-tenant after the restaurant-tenant improperly terminated the ten-year development lease prior to beginning construction.

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- Counsel for a manufacturer of curtain wall and storefront framing window systems in various actions in multiple forums defending against products liability claims in connection with the terms and conditions of sale and the limited warranty.
  - Counsel for a commercial real estate property and construction management company against owner's claims for delay, holdover rent, and general conditions in connection with a high-rise office building in Pittsburgh, Pennsylvania.
  - Counsel for a masonry contractor in state court and federal action claiming unpaid fees and expenses in connection with a hotel construction project in Pittsburgh, Pennsylvania involving a mechanics' lien and proof of claim in bankruptcy.
  - Counsel for an owner of a large manufacturing facility in Cleveland, Ohio in a AAA arbitration against the contractor in connection with a roofing project.
  - Counsel for a general contractor in bid protest with the Commonwealth of Pennsylvania in connection with a request for proposal for the renovation and expansion of a university gymnasium in Clarion, Pennsylvania.
  - Counsel for an EPC contractor for two new units, a butene plant and an aromatics plant, located within a petrochemical complex in Yanbu, Saudi Arabia in connection with contract and overall project review and analysis in connection with a change order dispute with the owner.
  - Counsel for an E&P company in a state court action defending against a claim by a marketer of natural gas produced from properties in West Virginia acquired under a purchase and sale agreement. The representation also included claims pursuant to the purchase and sale agreement for indemnification against the sellers relating to the marketer's claim.
  - Counsel for an E&P company in state court actions in connection with breach of contract, quiet title, implied duty to develop, and declaratory judgment claims by landowners in central Pennsylvania to terminate mineral leases.
  - Counsel for a large freight railroad company in a federal court action in connection with a subpoena to produce documents and testify related to the payment of state and federal prevailing wage rates on a high-speed rail construction project in Illinois.
  - Counsel for a seller in state court actions with multiple contract claims against the buyer and fraud claims by the buyer against the seller related to the \$400 million sale of oil and gas properties in the Marcellus Shale play. Also, the representation included a separate state court action to quiet title naming the parties who interest the seller claimed clouded the title to the oil and gas properties.