

Mark A. Miller
Partner

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Mark A. Miller practices in the Firm's Complex Litigation, Pharmaceutical Products, and Toxic Torts & Products Liability groups. He focuses his practice on highly complex litigation, and has defended corporate clients in serial mass tort and class action litigation, including both state and federal multidistrict litigation. He has significant pretrial and trial experience that typically includes developing and managing the defense of mass toxic tort and products liability cases, analyzing ongoing litigation, coordinating the work of local counsel, selecting and preparing expert witnesses, deposing fact and expert witnesses, and drafting and arguing motions. He also litigates parallel tort actions seeking personal injury, property damage, and/or medical monitoring damages. He has successfully defended such cases whether filed individually, as part of a mass tort, or as a class action.

In the environmental context, Mr. Miller has successfully defended clients in mass toxic tort cases in state and federal courts in which the plaintiffs alleged personal injuries and property damages from exposures to chemicals including PCBs, dioxins, nuclear by-products, lead, arsenic, and TCE. He successfully represented a Fortune 500 public utility in a CERCLA cost recovery mediation against the United States in a "war plants" case. He has represented an aluminum manufacturer in a remediation cost-recovery action, defended a power plant in a citizen suit alleging violations of the PSD and NNSR provisions of the Clean Air Act, represented a pesticide manufacturer in litigation related to a cancellation proceeding under FIFRA, and represented a Fortune 500 chemical manufacturer in a NEPA case concerning genetically-modified alfalfa. Mr. Miller has also advised large chemical companies, manufacturers, public utilities, and other corporations on litigation risk assessment and compliance with statutory and regulatory schemes including CERCLA, the PSD and NNSR provisions of the Clean Air Act, FIFRA, and NEPA.

Mr. Miller's product liability experience includes successfully defending a Fortune 500 automobile parts manufacturer in a federal consumer class action alleging defective product design, false advertising, and consumer fraud by defeating class certification through a preemptive motion to strike the class allegations and obtaining summary judgment on all counts. In addition, he has defended large corporations in the context of serial and multidistrict litigation against personal injury allegations stemming from the use of prescription pharmaceuticals.

Mr. Miller has been heavily involved in some of the Firm's most notable recent cases. In 2014, he was part of a trial team that successfully tried a case on remand from one of the most active federal MDLs for a large pharmaceutical company, achieving the first defense verdict in Florida after the jury deliberated for less than 45 minutes following a three week trial. In that same litigation, he has also obtained summary judgment on various grounds including adequacy of

Litigation

Complex Litigation
Environmental
Pharmaceutical Products
Toxic Torts & Products Liability

Education

Youngstown State University (B.S., 1993)
Cleveland-Marshall College of Law (J.D., 1999, *magna cum laude*)

Admissions

District of Columbia
United States Supreme Court
United States Courts of Appeals for the Fourth, Sixth, Seventh, Ninth, Eleventh, District of Columbia, and Federal Circuits
United States District Courts for the District of Columbia, and the Northern District of Ohio
United States Court of Federal Claims

the drug's warning, secured *Daubert* rulings excluding plaintiffs' expert testimony, and won a motion to preclude punitive damages under preemption principles.

Mr. Miller's expertise extends to white collar matters. He has represented corporate clients undertaking internal audits and investigations to determine compliance with federal securities and health care laws, and he has represented clients confronted with ongoing government investigations and subpoenas from federal entities such as the Securities and Exchange Commission and the Department of Justice. Mr. Miller also has experience with insurance coverage matters, having litigated claims on behalf of policy holders in several property damage and business interruption cases arising from Hurricane Katrina.

Following law school, Mr. Miller clerked for the Honorable Thomas J. Moyer, Chief Justice of the Ohio Supreme Court, from 1999 to 2001.

Mr. Miller is an active member of the District of Columbia Bar Association and the Defense Research Institute.

Publications

Inconsistent Gatekeeping Undercuts the Continuing Promise of *Daubert*

Passing the Buck: Recent Developments in CERCLA Contribution Actions
Seeking Natural Resource Damages

"Hydraulic Fracturing: New Science and New Developments In Environmental & Toxics Litigation"

"Acts of God, War, and Third Parties: The Previously Overlooked CERCLA Defenses"

"What's Past Is Prologue: Statutes of Repose in Post-Waldburger Environmental Contamination Cases"

A Defense Perspective on Excluding Corporate Conduct Experts in Product Liability Litigation