

Alan S. Miller

Director

Chair, Insurance Coverage and Bad Faith Law Practice Group

Chair, Environmental and Energy Law Practice Group

412-288-4004

milleras@hh-law.com

Practice Areas

Environmental and
Energy Law

Insurance Coverage
and Bad Faith Law

Litigation

Alan has more than forty years of experience in complex litigation and counseling, concentrating in the areas of environmental law, insurance coverage and bad faith, and commercial litigation. He chairs the firm's Environmental and Energy Law practice and the Insurance Coverage and Bad Faith Litigation practice.

Alan's environmental law practice includes counseling, litigation and alternative dispute resolution of matters involving municipal, residual, and hazardous waste permitting and compliance, contribution and cost recovery actions under CERCLA and related state statutes, claims for natural resource damages, contamination from leaking underground storage tanks, air and water pollution regulatory permitting and enforcement actions, oil and gas drilling compliance and transactions, and real estate transactions involving contaminated and recycled industrial sites.

Alan's insurance law practice involves representing insurance companies in a wide array of coverage disputes, both before litigation and in court, arising out of commercial liability, first party property, medical professional and personal lines policies, including disputes over coverage for claims involving construction defects, exposure to toxic substances, product defects, major property losses, professional liability, infringement of intellectual property rights and violations of consumer protection laws.

Prior to entering private practice Alan served as a trial attorney with the Environmental Enforcement Section, United States Department of Justice, and as an Assistant Counsel with the Pennsylvania Department of Environmental Resources. He is a frequent lecturer and author of materials for continuing legal education courses in the areas of environmental law and insurance coverage.

Bar Admissions

- Commonwealth of Pennsylvania
- U.S. District Court for the Western District of Pennsylvania
- U.S. District Court for the Middle District of Pennsylvania
- U.S. District Court for the Eastern District of Pennsylvania
- U.S. Court of Appeals for the Third Circuit

Education

- George Washington University National Law Center, J.D.
Cum Laude
- Washington University, B.A.

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page 2

Awards/Recognition

- AV Preeminent® Rated, Martindale-Hubbell Peer Review Rating System
- Best Lawyers in America®, Lawyer of the Year in Environmental Litigation 2013, 2017, 2020, 2023
- Best Lawyers in America®, Lawyer of the Year in Energy Law 2018, 2019, 2021
- Best Lawyers in America®, 2003 – 2023
- Best Lawyers in America®, Environmental Law 2003 – 2023
- Best Lawyers in America®, Environmental Litigation 2011-2023
- Best Lawyers in America®, Energy Law 2016 – 2023
- Best Lawyers in America®, Insurance Law 2018 – 2023
- Best Lawyers in America®, Insurance Litigation 2021
- Pennsylvania Super Lawyers, 2005 – 2023
- Top 50 Pittsburgh Super Lawyers, 2005 – 2007, 2015 – 2016, 2019 – 2020, 2023

Professional Affiliations

- Member, Pennsylvania Bar Association
- Member, Allegheny County Bar Association
- Member, Defense Research Institute (DRI)
- Member, International Association of Defense Counsel (IADC)

Experience
Environmental

- Representation of manufacturer in actions seeking recovery of CERCLA response costs and natural resource damages at major sediment Superfund site.
- Representation of municipal waste landfill in appeal of permit to expand the facility.
- Representation of plastics manufacturer in citizens suit brought under the Federal Water Pollution Control Act.
- Representation of municipal waste landfill in appeal of NPDES permit.
- Represented coating manufacturer in appeal of Title V air permit.
- Representation of natural gas transmission company regarding legacy gas well liabilities.
- Representation of operator of auto and truck fuel facilities regarding the investigation and remediation of releases.
- Representation of natural gas company in dispute with competitor over gas wells.
- Representation of facility operator regarding hazardous and residual waste generator issues and enforcement action.
- Representation of transporter of natural gas production wastewaters in suit by property owners near natural gas production well-pad alleging contamination of private water supplies and nuisance.
- Representation of a waste disposal and transportation company in various regulatory and permitting matters involving solid waste, water and air permitting, including litigation arising out of regulatory decisions.

- Representation of a major chemical manufacturer in several matters under CERCLA and HSCA concerning multiple disposal sites where its waste was disposed by a transporter.
- Representation of a chemical manufacturer in CERCLA litigation addressing long-tail environmental liabilities at various present and former manufacturing facilities.
- Representation of a hazardous waste disposal company in permitting and regulatory compliance matters.
- Representation of a municipal water company in an action against the owners and operators of several industrial facilities located near public water supply wells for damages caused by groundwater contamination from industrial solvents.
- Representation of municipal sewer authority involving oil and natural gas wastewaters.
- Representation of a generator of listed hazardous wastes in an action brought by the owner of the disposal company which accepted them for delivery to and disposal at the disposal company's landfill. The action, which was brought under the federal and state superfund laws as well as Pennsylvania common law, sought several million dollars in the estimated costs involved in closing the landfill in compliance with Pennsylvania hazardous waste disposal regulations.
- Representation of an oil recovery and environmental remediation company involving alleged CERCLA liability for contamination at an oil reclamation facility.
- Representation of a hazardous waste transporter in an action brought by USEPA against generators and transporters of industrial wastes to finance the estimated \$50 million closure of a landfill.
- Representation of a plastics manufacturer against a former industrial owner and operator of the premises arising out of groundwater contaminated with various hazardous substances.
- Representation of waste disposal company in challenge to constitutionality of state regulation imposing a harms versus benefits test for permitting.
- Representation of discount grocer in purchasing land within a recycled industrial park for construction of a distribution facility.
- Representation of non-profit corporation in the purchase of properties contaminated by the release of gasoline from underground storage tanks at a former gasoline station.
- Representation of a class of city residents against major oil company arising out of inundation of homes with gasoline fumes caused by release from underground storage tanks.
- Representation of municipal water authority protecting against threatened contamination of public water supply presented by major release of gasoline from underground storage tanks.
- Representation of a municipal operator of a sewage collection and treatment system in multifaceted litigation arising out of the alleged contamination of farm land from cadmium contained in sewage



- sludge used as a fertilizer and soil conditioner on the land.
- Negotiation of leases for siting of Marcellus gas processing facility.

Insurance Coverage

- Representation of insurer in suit seeking coverage under public entity liability policy for claims of failure to promote brought by police officers. *Slaughter v. Charter Oak Fire Ins. Co.*, 2022 WL 2195453 (M.D. Pa. 2022).
- Representation of insurer in suit seeking coverage for a lawsuit against its insured supplier of steel products brought by welders alleging injury from exposure to welding fumes. Summary judgment granted for insurer finding no accident and applying the pollution exclusion. *Allegheny Ludlum, LLC v. Liberty Mut. Ins. Co., et al.*, 487 F.Supp.3d 350 (W.D. Pa. 2020), aff'd, 858 Fed. Appx. 49 (3d Cir. Sept. 14, 2021).
- Representation of insurer in suit seeking coverage arising out of the crash of an aircraft resulting in fatalities. Summary judgment granted in favor of insurer. *Interface Performance Materials v. Charter Oak Ins. Co.* (E.D. Pa. 2018).
- Representation of insurer in suit seeking coverage for claims involving construction defects on planned residential development. Summary judgment granted to insurer. *Northridge Village, L.P. et al v. The Travelers Indem. Co.*, 2017 U.S. District LEXIS 140541 (E.D. Pa. 2017).
- General outside counsel to insurer of hospitals.
- Representation of insurer in suit seeking coverage for an underlying lawsuit alleging various civil rights claims.
- Representation of excess insurer in coverage and bad faith actions involving multiple underlying claims arising out of exposures to asbestos, silica and coal dust.
- Representation of insurer in actions arising out of the partial collapse of an engineered slope at the end of an airport runway.
- Represented insurer in coverage dispute arising out of the sexual molestation of a minor.
- Representation of insurer in coverage action brought by insured involving copyright infringement judgment. *OneBeacon Ins. Co. v. William A. Graham Co. et al.*, No. 2009-41636 (C.P. Montgomery Cty. Dec. 14, 2011) aff'd 60 A.3d 586 (Pa. Super. 2012).
- Representation of insurer in coverage action involving claims made for professional services. *McMillen Engineering, Inc. v. The Travelers Indem, Co.* 744 F. Supp. 2d 416 (W.D. Pa. 2010).
- Representation of insurer in action for coverage and bad faith arising out of claims against policyholder under FACTA. *Whole Enchilada, Inc., v. Travelers Prop. Cas. Co.*, 581 F. Supp. 2d 677 (W.D. Pa. 2008).
- Representing insurance companies in coverage litigation brought by manufacturers of tobacco products seeking coverage for third-party



personal injury claims allegedly arising out of use of tobacco products.

- Representing insurer in action for declaratory judgment and bad faith arising out of claims against policyholder for blast fax liability under the *Telephone Consumer Protection Act (TCPA)*. *Melrose Hotel Co. v. St. Paul Fire and Marine Ins. Co.* 432 F. Supp. 2d 488 (E.D. Pa. 2006), aff'd, 2007 U.S. App. LEXIS 22711 (3d Cir. Sept. 25, 2007).
- Representation of insurer against claim for coverage brought by persons exposed to asbestos who had not yet been diagnosed with disease. *Erdely v. Hinchcliffe and Keener, Inc. et al.*, 875 A.2d 1078 (Pa. Super. 2005), appeal denied, 890 A.2d 1059 (Pa. 2005).
- Representing insurance company involving coverage issues raised by multiple actions arising out of contaminated pharmaceutical products.
- Representing insurer in actions for bad faith arising out of underinsured and uninsured motorist claims.
- Representation of insurance company in coverage and bad faith action involving advertising injury coverage for trademark infringement claims and circumstances requiring retention of independent counsel under Pennsylvania law. *Maddox v. St. Paul Fire & Marine Ins. Co.*, 70 Fed. Appx. 77 (3d Cir. 2003).
- Representation of insurance company in garnishment action seeking coverage under commercial general liability policy for defective log home kit. *Freestone v. New England Log Homes, Inc. and North River Ins. Co.*, 819 A.2d 550 (Pa. Super. 2003), appeal denied, 2003 Pa. LEXIS 1460 (Pa. 2003).
- Representation of insurance company in breach of contract and bad faith claims arising out of denial of coverage under public entity management policy for claims involving negligent placement of foster children.
- Representation of insurance companies in bankruptcy court involving coverage disputes arising out of asbestos liabilities and attempts to assign policy rights to a trust under plans of reorganization.
- Representing insurance company which issued environmental remediation bonds in forfeiture litigation initiated by Pennsylvania Department of Environmental Protection.
- Representing excess insurers in indemnity dispute arising from national class action settlement involving a national restaurant chain.
- Representation of insurance company in coverage action brought by industrial insured seeking coverage for environmental liabilities under pre-pollution exclusion policies.
- Representation of insurance broker involving claims arising out of owner-controlled wrap up insurance programs for turnpike construction project and publicly funded convention center.

Commercial Litigation

- Represented owner of captive landfill in suit seeking breach of contract damages from its sole source.
- Defending chain of craft stores against claims of failing to comply with credit card receipt requirements under the Fair and Accurate Credit Transactions Act.
- Defending a manufacturer of industrial fans against breach of contract, warranty and indemnity claims brought by electric utility.
- Defending manufacturer against claims of misappropriation of trade secrets and conversion brought by its principal competitor.
- Defending accounting firm against claims of errors and omissions in financial audits.
- Defending insurance broker against claims of errors and omissions in the placement of business risk insurance.

Thought Leadership

Published Works

- “Insurance Coverage Law in Pennsylvania”, National Business Institute, May 26, 2004
- “Fundamentals of Water Law in Pennsylvania”, National Business Institute, September 30, 2003
- “Challenging Government Regulations”, Pennsylvania Bar Institute Environmental Law Symposium, PBI Publication No. 2001-2708, April, 2001
- “Underground Storage Tank Litigation”, Pennsylvania Bar Institute Environmental Law Symposium, PBI Publication No. 1999-2067, April, 1999
- “Ethical Issues in Environmental Law”, Pennsylvania Bar Institute Seminar Entitled “1995 Federal Environmental Review”, PBI Publication 1995-1031, December, 1995
- “Expanded Use of RCRA Citizens Suit Provision for Business and Property Owners to Recover Cleanup Costs for Contamination”, Pittsburgh Legal Journal, Daily Edition, June 8, 1995
- “Challenging Government Regulations”, 2001 Environmental Law Forum, Pennsylvania Bar Institute, PBI Publication No. 2001-2701, April, 2001
- “Underground Storage Tank Litigation”, 1999 Environmental Law Symposium, Pennsylvania Bar Institute, PBI Publication No. 1999-2067, April, 1999
- “Ethical Issues in Environmental Law”, “1995 Federal Environmental Review”, Pennsylvania Bar Institute, Publication 1995-1031, December 22, 1995
- “New Rules of Practice Before the Environmental Hearing Board”, Pennsylvania Bar Institute, PBI Publication No. 1995-942, January 13, 1995

Classes/Seminars

- Faculty/lecturer “Environmental Business Risks and Insurance Solutions”, Pennsylvania Bar Institute, May 25, 2005
- Faculty/lecturer “Insurance Coverage Law in Pennsylvania”, National Business Institute, May 26, 2004
- Faculty/lecturer “Fundamentals of Water Law in Pennsylvania”, National Business Institute, September 30, 2003
- Faculty/Lecturer: “Challenging Government Regulations”, 2001 Environmental Law Forum, Pennsylvania Bar Institute, CLE-Accredited, PBI Publication No. 2001-2701, April 1, 2001
- Faculty and Lecturer: “Environmental Hearing Board Roundtable”, 2000 Environmental Law Forum, Pennsylvania Bar Institute, CLE-Accredited, PBI Publication No. 2000-2477, April 1, 2000
- Faculty/Lecturer: “Underground Storage Tank Litigation”, 1999 Environmental Law Symposium, Pennsylvania Bar Institute, CLE-Accredited, PBI Publication No. 1999-2067, April 1, 1999
- Faculty/Lecturer: “Ethical Issues in Environmental Law”, “1995 Federal Environmental Review,” Pennsylvania Bar Institute, CLE-Accredited, Publication 1995-1031, December 22, 1995
- Lecturer: “Recent Developments in Environmental Law”, “Recent Development in Federal Practice,” Pennsylvania Bar Institute, CLE-Accredited, November 14, 1995
- Faculty/Lecturer: “New Rules of Practice Before the Environmental Hearing Board”, Pennsylvania Bar Institute, CLE-Accredited, PBI Publication No. 1995-942, November 13, 1995
- Lecturer: “Eco-Risk and NRD Seminar”, Air & Waste Management Association – Western Pennsylvania Section, and the Allegheny County Bar Association, Environmental Law Section, November 3, 1994
- Lecturer: “Advanced Real Estate Law in Pennsylvania”, Permitting Process and Environmental Liabilities, Including Superfund Issues, National Business Institute, August 2, 1994
- Lecturer: “Regulation of VOC and NOx Emissions in Pennsylvania—Reasonably Available Control Technology Requirements and New Source Review Rules”, Current Technologies Corporation and PENELEC, June 30, 1994
- Lecturer: “What Every Real Estate and Business Lawyer Needs to Know About Environmental Law”, Pennsylvania Bar Institute, September 22, 1993
- Lecturer and Course Planner: “Clean Air Act: The 1990 Amendments”, Allegheny County Bar Association, The Pennsylvania Department of Environmental Resources, the U.S. Environmental Protection Agency, February 14, 1991
- Presenter: “Permitting Process and Environmental Liabilities”, “Advanced Real Estate Law in Pennsylvania,” Pittsburgh, Pennsylvania, August 2, 1994

