



**Paul K. Stockman**

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**Education**

University of Virginia School of Law  
(J.D., 1992) (*Virginia Law Review*)  
Harvard University  
(A.B., magna cum laude with highest honors  
in History, 1988)

**Honors**

AV Rated, Martindale-Hubbell  
  
Named to "Pennsylvania Super Lawyers,"  
Environmental Litigation, Super Lawyers,  
Thomson Reuters, 2014, 2015, 2016, 2017  
  
Temple Bar Foundation Scholarship,  
London, England, 1993

**Admitted**

Pennsylvania

## Paul K. Stockman

### Partner

Paul has a broad-based complex trial and appellate litigation practice, with substantial focus on the litigation, trial and appeal of environmental, energy, insurance coverage, and toxic tort disputes in a variety of fora. He has represented a variety of clients in proceedings in federal and state courts in Pennsylvania and throughout the nation and before administrative tribunals and commercial arbitration panels.

Paul also has decades of experience representing industrial clients in a variety of environmental disputes, including actions under CERCLA, RCRA, the Clean Water Act, the Clean Air Act, and analogous state environmental laws. Paul has particular expertise in prosecuting and defending damage and contribution claims arising out of allegedly-contaminated sites, including CERCLA claims against the U.S. government.

Paul has substantial experience representing Appalachian Basin oil and gas stakeholders in contested matters, including disputes over oil and gas leases, the defense of putative class actions brought by landowners, litigation over title to severed oil and gas rights, pipeline right-of-way disputes, litigation regarding natural gas storage operations and landowner nuisance and environmental tort claims.

Paul has litigated disputes involving a wide variety of insurance products and factual contexts including environmental insurance coverage, residual value insurance, directors and officers insurance, commercial property insurance, boiler and machinery insurance, general liability coverage, bad faith and commercial crime insurance matters, among others, and has counseled corporate policyholders on ways of maximizing the value of their current and historic insurance assets.

In addition to his insurance and environmental litigation practice, Paul has an extensive appellate litigation practice, counseling clients with respect to appellate issues and representing clients in a variety of appellate matters.

Paul also has a wide-ranging commercial and constitutional litigation practice.

After completing law school, Paul served as law clerk to the Hon. Judge Ellsworth A. Van Graafeiland of the U.S. Court of Appeals for the Second Circuit. Before joining Kazmarek Mowrey Cloud Laseter LLP, opening its Pittsburgh office, Paul was a partner at K&L Gates LLP and McGuireWoods LLP.

### ***REPRESENTATIVE EXPERIENCE:***

#### **Environmental Litigation**

- Defended major ferrous metals manufacturer against threatened Clean Air Act citizen suit arising out of coke plant operations; was able to moot threatened lawsuit, preventing potential civil penalties, draconian injunctive relief and attorney fees, by

negotiating consent decree with applicable regulators on accelerated timetable during 60-day pre-suit notice period.

- Defended operator of a major coal-fired power plant against a Clean Water Act citizen suit raising novel issues relating to the "diligent prosecution" bar; the case settled on the eve of trial.
- Represented a major metal manufacturer in what is believed to be the first comprehensive, multisite CERCLA cost recovery action, seeking response costs from the U.S. government based on World War II-era production controls; the cases, built through archival research and de bene esse depositions of octogenarian former employees, were settled favorably through mediation for an aggregate recovery exceeding \$23 million.
- Represented a former manufacturer of pyrotechnic components for missile systems and nuclear weapons in asserting CERCLA claims against the United States arising out of the government's Cold War-era ownership of plant equipment and control over facility operations; the case settled favorably after limited document and deposition discovery, including a commitment for reimbursement of a substantial proportion of future response costs.
- Defense of a major metals manufacturer against putative class action brought by neighboring landowners, alleging that fugitive emissions and odors from nearby facility constituted a nuisance.
- Defended through trial and appeals of a series of nuisance claims against a public warehouse, arising out of alleged fugitive dust emissions, limiting the ultimate judgment to a sub-"nuisance value" total.
- Representation of a major manufacturing company in complex, multi-party mediation involving response costs at the Crab Orchard National Wildlife Refuge Superfund Site.
- Defended a steel services company against a putative class action alleging bodily injury, nuisance and property damage allegedly caused by plant emissions; plaintiffs dismissed their claim with prejudice after Paul's deposition of the lead named plaintiff revealed insuppressible problems proving causation.

### **Energy Litigation**

- Representation of a major midstream pipeline and gas storage operator in multiple disputes over the validity of "dual purpose" production and storage leases; these cases were resolved successfully by agreement. In one case, the court held, after a trial on the merits, that use of leased property for the protection of stored gas keeps the lease in effect for all purposes, including oil and gas production, rejecting the contention that production and storage rights under the lease were severable. The other cases resolved consensually. These rulings allowed the client to realize substantial value from existing leases.
- Representation of two trusts owning approximately 100,000 acres of severed oil, gas and mineral rights in a variety of title disputes arising from surface owners' efforts to confiscate subsurface rights. In one case, the court invalidated a 1951 default judgment on the ground that it was obtained by fraud. In another case, the court invalidated a 1988 default judgment.
- Representation of a trust owning oil and gas rights in a lease challenge; the Pennsylvania Superior Court held – for the first time – that a lease violated the

Pennsylvania Guaranteed Minimum Royalty Act because it purported to require the lessor to assign one half of its royalty back to the lessee.

- Defense of a major gas storage operator against putative class claims alleging trespass and conversion in connection with its storage operations; obtained settlement through an innovative counterclaim strategy that effectively negated class claims and through the aggressive pursuit of a federal preemption defense.
- Prosecuted condemnation claims on behalf of a major gas storage operator; obtained nominal award of “just compensation” following a trial before a panel of land commissioners.
- Defended an oil and gas producer in multiple lawsuits alleging that noise, traffic and emission from its operations constituted a nuisance.

### **Insurance Coverage Litigation**

- Representation of a public utility in obtaining insurance coverage for former manufactured gas plant related environmental liabilities; was able to facilitate cost-effective early settlements through innovative front-loaded voluntary disclosure and mediation process.
- Represented a major distributor of home building supplies in seeking insurance coverage for product liability claims, including successful effort to challenge insurers’ choice of forum in a preemptive declaratory judgment suit.
- Represented one of the nation’s largest diversified financial institutions in what is believed to be the first major lawsuit to address coverage under a vehicle residual value insurance policy; the case settled on the eve of trial for a mid-nine figure recovery.
- Represented a state-owned corporation in pursuing claims under D&O and commercial crime policies for losses arising out of former officials’ corruption and self-dealing; the D&O carrier paid its limits without the need for litigation, and claims against the crime insurer were settled on generous terms after defeat of its summary judgment motion.
- Represented an injured individual, as assignee, in asserting claims against product liability defendant’s excess insurer and insurance broker; matter settled before trial for \$9 million.
- Represented a grocery distributor in asserting bad faith claims against its general liability insurer, arising from insurer conduct in settling a severe bodily injury claim; aggressive case posturing enabled favorable settlement in the midst of discovery.
- Represented a consortium of large policyholders challenging the acquisition of a historical liability insurance underwriter before the Pennsylvania Insurance Department.

### **Appellate Litigation**

- *Hammersmith v. TIG Ins. Co.*, 480 F.3d 220 (3d Cir. 2007) - Obtained reversal of a summary judgment in an insurer’s favor (on late notice grounds) and clarified previously murky Pennsylvania choice-of-law rules as applied to contract disputes.
- *Crucible Materials Corp. v. Certain Underwriters at Lloyd’s*, 330 Fed. Appx. 223 (2d Cir. 2009) - Obtained reversal of a *sua sponte* summary judgment entered in an insurer’s favor on a ground not argued by the parties.
- *In re Madden*, 151 F.3d 125 (3d Cir. 1998) - Obtained a ruling that a witness employed to produce commentaries for a wrestling promoter’s “900-number” hotline

was not a "journalist" entitled to the protection of the qualified federal journalist-source privilege.

- *Don's Building Supply v. OneBeacon Insurance Co.*, 267 S.W.3d 20 (Tex. 2008) – Representation of *amici curiae* in arguing that Texas should adopt an "injury in fact" trigger for coverage of progressive, latent property damage claims under general liability insurance policies.
- *Herder Spring Hunting Club v. Keller*, 143 A.3d 358 (Pa. 2016) – Represented a consortium of *amici curiae*, challenging the validity of Pennsylvania's "tax wash" doctrine on constitutional and statutory grounds.
- *Northern Forests, II, Inc. v. Keta Realty*, 130 A.3d 19 (Pa. Super. 2015) – Successfully argued appeal confirming that void judgments may be challenged without regard to the passage of time, and establishing – as a matter of first impression in Pennsylvania appellate courts – the standards for adverse possession of oil and gas rights
- *Southwestern Energy Prod. Co. v. Forest Resources*, 83 A.3d 177 (Pa. Super. 2013) – Obtained a ruling invalidating an oil and gas lease on the ground that it violated Pennsylvania's Guaranteed Minimum Royalty Act.
- *Clendenin Brothers, Inc. v. U.S. Fire Insurance Co.*, 390 Md. 449, 889 A.2d 387 (2006) – Representation of an *amicus curiae* in establishing that the so-called "absolute pollution exclusion" does not apply to claims alleging injury from exposure to welding rod fumes.
- *Braaten v. Saberhagen Holdings*, 165 Wash. 2d 373, 198 P.3d 493 (2008) - Wrote the brief in a case establishing, in a matter of first impression in any state's high court, that a defendant is not liable for failing to warn of the risk allegedly posed by asbestos-containing replacement parts or insulation that it did not supply.
- *Taylor v. Elliott Turbomachinery Co.*, 171 Cal. App. 4th 564, 90 Cal. Rptr. 3d 414 (2009) - Wrote the brief in a case holding that a defendant is not liable for failing to warn of the risk allegedly posed by asbestos-containing replacement parts or insulation that it did not supply.

### **Commercial Litigation**

- Obtained a precedent-setting summary judgment for one of the nation's largest consulting firms, on a matter of first impression in Pennsylvania, establishing that computer consultants cannot be liable in tort for alleged malpractice and that disgruntled customers are limited to contract remedies.
- Represented a supplier of mining equipment, on its counterclaim, defeating a tunneling contractor's claim that the machine performed improperly and obtaining a "100-cents-on-the-dollar" jury verdict.