



## Mark D. Feczko

### Partner

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## OVERVIEW

Mark Feczko is a partner in the Commercial Litigation and Energy, Infrastructure, and Resources practice areas. His practice is concentrated in complex litigation in a number of different areas, with an emphasis on product liability and oil and gas disputes. He has represented natural gas producers and pipeline companies in litigation involving lease disputes, development obligations, royalty and bonus payment class actions, contamination claims and land use. He has represented manufacturers of various types of products and other companies in product liability and other commercial disputes. He has extensive litigation experience in all aspects of discovery, expert examination and challenges, class certification proceedings, trial preparation, and trial, and he has handled numerous arguments, hearings, mediations, arbitrations, injunction proceedings, non-jury, and jury trials and appeals in federal and state courts throughout the country.

## ACHIEVEMENTS

- AV Rating in Martindale-Hubbell
- *BTI Client Service All-Star* - 2018
- Pennsylvania Super Lawyers - 2014, 2015, 2016
- Best Lawyer for Product Liability Litigation-Defendants - 2014, 2015, 2016, 2017, 2018, 2019, 2020
- Colonel William J. Hoynes Award (graduating first in law school class)

## SPEAKING ENGAGEMENTS

- “*Lone Pine or Folk Lore? A Survey of Case Developments Regarding Lone Pine Orders in Oil and Gas Litigation*,” presented at the Energy & Mineral Law Foundation’s 35th Annual Institute, June, 2014
- “The Courts: Recent Developments and Looming Challenges,” presented at K&L Gates’ Fifth Annual Appalachian Basin Oil & Gas Seminar, April, 2012
- “Litigation in the Marcellus Shale: Well Development, Leases, Royalties and Zoning,” presented at K&L Gates’ Fourth Annual Appalachian Basin Oil & Gas Seminar, April, 2011.

- “Update on Litigation in the Marcellus Shale: Royalties, Bonuses and Local Regulation,” presented at K&L Gates’ Third Annual Appalachian Basin & Oil Gas Seminar, April, 2010.
- “Damages in a Death Case-Wrongful Death and Survival Actions,” presented at Pennsylvania Bar Institute continuing legal education seminar entitled “*Damages: Tactics in Personal Injury and Death Cases*,” November, 1999.

## EDUCATION

- J.D., University of Notre Dame Law School, 1994 (*summa cum laude*; *Colonel William J. Hoynes Award*; *Lead Note Editor, Notre Dame Law Review*)
- B.A., University of Notre Dame, 1991 (*magna cum laude*; *Phi Beta Kappa*)

## ADMISSIONS

- Bar of Pennsylvania
- United States Court of Appeals for the First Circuit
- United States Court of Appeals for the Fourth Circuit
- United States Court of Appeals for the Second Circuit
- United States Court of Appeals for the Third Circuit
- 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

- 21 October 2019, *May the Force Be with You: North Dakota Supreme Court Affirms that Force Majeure Clause Applies to Primary Term of Oil and Gas Leases*
- 24 April 2015, *Lone Pine Loss: Supreme Court of Colorado Says State Rules Don’t Allow Use of Lone Pine Orders in Natural Gas Drilling Case*

## OTHER PUBLICATIONS

- “Lone Pine or Folk Lore? A Survey of Case Developments Regarding Lone Pine Orders in Oil and Gas Litigation,” *35 Energy & Mineral Law Institute [Chapter 5]* (2014)
- Co-Author, “DEP Officials Personally Hit With \$6.5 Million Verdict,” *Independent Oil & Gas Association of Pennsylvania (IOGA) Newsletter, Volume 229*, March 2010.

- "Protecting Trade Secrets From Dumpster Divers and Other Snoops: The Law Protects Those That Protect Themselves," *Mealey's Litigation Report: Intellectual Property*, 7 August 2000
- "Recording Conversations in Pennsylvania: Criminal and Civil Penalties for the Unwary," *Pennsylvania Association of Criminal Defense Lawyers Forum*, 2000

## NEWS & EVENTS

- 18 August 2022, More Than 350 K&L Gates Lawyers Named Among 2023 Best Lawyers in America, Ones to Watch
- 19 August 2021, Nearly 300 K&L Gates Lawyers Named Among 2022 Best Lawyers in America, Ones to Watch

## AREAS OF FOCUS

- Oil and Gas
- Appellate Litigation
- Commercial Disputes
- Product Liability

## INDUSTRIES

- Energy

## REPRESENTATIVE EXPERIENCE

### Oil and Gas Litigation

- Trial counsel for oil and gas producer in defense of multiple lawsuits in state court alleging groundwater contamination and bodily injuries. Favorably resolved litigation after obtaining a modified case management order phasing discovery and requiring plaintiffs to submit expert reports before the case could proceed.
- Trial and appellate counsel for oil and gas producers in defense of class and individual actions in federal and state courts regarding lease royalties and bonus payments. Obtained dismissals on motions to dismiss/preliminary objections in several of the cases.
- Trial and appellate counsel for oil and gas producer in lease termination dispute in state court regarding development obligations and commencement of operations.
- Trial and appellate counsel for oil and gas producers in defense of lease termination dispute in federal court. Obtained dismissal of lawsuit on motion to dismiss based on issue of first impression in Pennsylvania regarding change in ownership provision of lease at issue.

- Trial counsel for oil and gas producer in lease termination dispute in federal court regarding development obligations. Obtained dismissal of lawsuit on motion for summary judgment.
- Trial counsel for oil and gas producer in injunction proceeding in federal court regarding right to conduct operations.
- Trial and appellate counsel for oil and gas producer in lease termination case based on alleged fraud. Obtained dismissal of lawsuit on motion for summary judgment and affirmance on appeal.

### **Product Liability Litigation**

- Trial and appellate counsel for manufacturer of forklift in defense of wrongful death product liability claim brought in federal court. Obtained unanimous defense jury verdict in multi-week trial and affirmance from Court of Appeals. Plaintiff sought in excess of \$10 million in damages, plus attorneys' fees.
- Trial co-counsel for distributor of electrical products in defense of claim in state court seeking \$52 million in damages arising out of fire at steel mill involving six-week jury trial.
- Trial and appellate counsel for manufacturer of heavy machinery, including metal slitting and processing equipment, in defense of personal injury suits in numerous federal and state courts alleging serious injury from work site accidents. Obtained summary judgment or dismissals in several of the cases.
- Trial counsel for manufacturer of electrical controls and heaters in defense of suits in numerous federal and state courts claiming personal injury, wrongful death, fire and property damage due to alleged product failures. Obtained summary judgments and voluntary dismissals in many of the cases.
- Trial counsel for manufacturer of hot water heater in defense of product liability, personal injury and property damage suit in federal court arising from explosion and fire in personal residence.
- Trial counsel for manufacturer of steel processing machine in defense of product liability, wrongful death claim in state court arising from decedent operator's failure to lock-out and tag-out the machine prior to doing maintenance.
- Trial counsel for component part manufacturer of window in personal injury product liability action in state court.

### **Commercial Litigation**

- Trial and appellate counsel for steel manufacturer in defense of breach of contract suit in federal court arising out of dismantling of steel mill. Obtained defense jury verdict and affirmance from Court of Appeals.
- Trial counsel for industrial gas supplier in claims involving breach of contract, interference with contractual relations and theft of trade secrets in state court. Obtained defense jury verdict on plaintiff's claims and significant jury award for client on counterclaims.
- Trial counsel for company accused of violating customer's right to privacy. Obtained dismissal on motion to dismiss based on arbitration clause.