



## Paul M. Schmidt

Principal  
Environmental

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**Counsels and represents clients in litigation, permitting, and transactions related to environmental issues.**

### Bio

**Paul M. Schmidt** is a Principal in the Firm's Environmental Practice Group and counsels and represents clients in litigation, permitting, and transactions related to environmental issues. Mr. Schmidt's clients include companies and individuals in the real estate development, private equity, commercial construction, manufacturing, and energy industries, among others.

For real estate clients, Mr. Schmidt advises on brownfield funding and clean up, wetlands permitting, stormwater runoff, and sewage facilities. He also conducts environmental due diligence, investigates and manages risks associated with asbestos, lead in paint and drinking water, Legionella, and mold, and works with clients to address permitting and compliance issues in industrial operations.

Mr. Schmidt's environmental litigation experience includes administrative appeals, cleanup cost-recovery actions, and property damage, and personal injury claims. He also works with clients to address permitting and compliance issues in industrial operations, including waste, water quality, air, oil and gas drilling, pipelines, CNG stations, storage tanks, and radiation.

He has appeared before the U.S. Court of Appeals for the Third Circuit, the U.S. District Court for the Eastern and Middle Districts of Pennsylvania, the Commonwealth Court of Pennsylvania, the U.S. District Court for the District of New Jersey, the Superior Court of New Jersey in most counties, the Pennsylvania Environmental Hearing Board, and the Pennsylvania Public Utility Commission (PA PUC).

From 1997 to 2001, Mr. Schmidt counseled the Pennsylvania Department of Environmental Protection's (PA DEP) Water Management, Sewage Facilities, Storage Tanks, Waste Management and Environmental Cleanup Programs as an Assistant Counsel. Prior to joining PA DEP, he was a Colorado Assistant Attorney General, assisting the Colorado Department of Public Health and Environment on cutting-edge Superfund risk assessment, remediation, and enforcement activities for major Superfund sites, including the Rocky Mountain Arsenal, and the Rocky Flats nuclear weapons plant.

### Selected Publications

### Practices

- Environmental
- Environmental Real Estate Services
- Environmental Regulation and Litigation
- Energy & Utilities
- Shale Resource
- Regulatory and Administrative Agency Law
- Corporate
- Hospitality and Retail
- Real Estate
- Class Action Defense

### Industries

- Private Equity & Venture Capital
- Construction
- Energy and Utilities
- Real Estate
- Hospitality
- Manufacturing

### Education

- J.D. and Certificate in Environmental Law, Pace University School of Law  
Managing Editor, *Pace Environmental Law Review*
- B.S. in Biology, Kent State University

### Bar Memberships

- New Jersey
- Pennsylvania
- Colorado

### Court Admissions

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

- "COVID-19 Is Changing Enviro Due Diligence For Real Estate," *Law360* (November 2, 2020)
- "Developing Distressed Property: Desirability and Viability," *The Legal Intelligencer's Energy & Environment Supplement* (July 25, 2017)
- "One Size Does Not Fit All – The Importance of Tailored Environmental Due Diligence and Post-Transfer Activities," *The Legal Intelligencer's Real Estate Supplement* (March 26, 2007)
- U.S. District Court for the District of New Jersey
- U.S. District Court for the District of Colorado

## Selected Speaking Engagements

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- "Legionella in Nursing Homes: What Are the Risks and What Can (or Must) Facilities Do About It," Pennsylvania Coalition of Affiliated Healthcare & Living Communities (PACAH) webinar (October 29, 2020)
- "How COVID-19 is Changing Environmental Due Diligence," The Advisory Panel Webinar (September 3, 2020)
- "Land Use Law: Current Issues in Subdivision and Zoning - Confidently Handle Subdivision, Zoning, and Other Land Use Processes," National Business Institute (NBI) CLE seminar, Philadelphia, PA (October 30, 2019)
- "Six Practical Tips on Environmental Due Diligence in Real Estate Transactions," Montgomery County Bar Association, Norristown, PA (June 13, 2019)
- "Impacts of Environmental Regulation on Land Use," National Business Institute, Philadelphia, PA (November 2, 2017)
- "The Dark Side of Passive Remediation," In-Situ Remediation Workshop, Doubletree Hotel, Plymouth Meeting, PA (October 1, 2014)
- "2012's Top Cases & Issues Impacting Construction and Environmental Claims," Council on Litigation Management, Nashville, TN (November 9, 2012)
- "Environmental Forensics: Age Dating and Fingerprinting Contaminant Release," Council on Litigation Management, Webinar (October 2011)
- "CERCLA and PRP Contribution Claims: Making Cost Recovery Work for You," Brownfields 2011, Philadelphia, PA (April 4, 2011)
- "Common Environmental Obstacles in Real Estate Transactions," Bucks County Commercial Real Estate Networking and Exchange Breakfast (May 18, 2007)
- "Practical Tips For Mastering Large Commercial Real Estate Deals: Deal or No Deal," Legal CLE, Philadelphia, PA (August 2, 2007)
- "All Appropriate Inquiry and the Impact to EPA Grantees," EPA's Region III Brownfields Grant Recipients Workshop (December 2006)
- "Natural Resources Damages," presented to AIGDC, Inc.

## Representative Matters

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- Assisted a client with the acquisition of a large, moth-balled manufacturing facility in Philadelphia, Pennsylvania in order to relocate its industrial operations. Advised the client on the scope of environmental due diligence and on which reported environmental conditions were of significance to the client's planned uses. Negotiated an agreement requiring the seller to place funds in escrow and to complete necessary remediation activities after closing. Ensured that remediation met a higher standard than the client's operations required, so that the client could bring in amusement industry tenants. Also ensured that the environmental concerns and controls did not extend to an undeveloped section, so that the client could subdivide and develop that section for residential use.

- Assisted a client with the remediation, redevelopment, and sale of a historic, 10-acre former industrial complex in northern New Jersey that began operations in the 19th Century. Counseled the client on the remediation of two dozen areas of contamination, and on the demolition, reuse, and disposal of several large contaminated buildings. When exponentially greater contamination was discovered during redevelopment, quickly provided remediation guidance to minimize delays and developed an evidence-gathering protocol to maximize future cost-recovery efforts. Subsequently assisted with the sale of the property, including negotiating post-closing responsibilities in the agreement of sale, preparing an easement agreement for seller's continued monitoring, and counseling the client on remedial action permit requirements and financial assurance obligations.
- Assisted one of the largest owners of commercial and industrial property in the United States, as it subdivided a large shopping center and leased and sold portions to national big box and retail companies. Crafted a strategy to ensure that extensive environmental requirements were satisfied in time to meet the closing deadline. Shaped necessary environmental restrictions to minimize impacted parcels, identified affected recent and historic property interest and negotiated the necessary environmental covenants and subordination agreements with the government agency and with existing and future property interest holders. Quickly obtained regulatory approval of a revised strategy and re-negotiated document language, when the client altered its development plans near closing, enabling the client to close on time and without complications.
- Counseled Fortune 50 company on appropriate environmental due diligence, site investigation, and remediation, of numerous properties acquired as part of multi-million dollar facility acquisitions. Assisted the client to develop claims against the seller's escrow fund and to rezone and convey various parcels, maximizing the client's return on the acquisition.
- Counseled a foreign company on the appropriate scope of environmental due diligence as part of the multimillion-dollar acquisition of a heavily regulated precious metal recycling facility. Identified and quantified significant environmental risks, enabling the client to avoid accepting nearly a million dollars of liability in error.
- Obtained the favorable settlement of an action by a national commercial/retail property owner in a suit against Fortune 100 companies seeking to recover costs to investigate and clean up hazardous substances. The client had alleged the defendants discharged the substances at the client's warehousing facility prior to the client's ownership.
- Advised a nationwide REIT on responding to a claim that a worker contracted Legionnaire's Disease. Assembled a team of public relations, medical, industrial hygiene, and other experts to quickly evaluate the claim, manage information and successfully demonstrate that the client was not responsible.
- Advised a nationwide REIT on responding to a claim that employees were exposed to contaminants through a water cooler connected to a building cooling system. Assembled a team of public relations, engineering, medical, environmental, and other experts to quickly evaluate the claim, manage information and successfully demonstrate that no employees experienced any exposure to contaminants.
- Guided the participation of a multidisciplinary team of experts evaluating cutting-edge human health and ecological risk assessments and response actions at the 25-square mile Rocky Mountain Arsenal Superfund Site. In addition, assisted in identifying and enforcing state environmental laws applicable to the Department of the Army's response actions at the site.

- Developed the legal analysis successfully supporting the first ever ambient promulgation of state radionuclide standards, and assisted in identifying and enforcing state environmental laws applicable to the Department of Energy's response actions at the Rocky Flats Nuclear Weapons Plant.
- Obtained an extremely favorable settlement of a cleanup cost recovery action seeking nearly \$600,000, at a cost to the client of only 7% of plaintiff's damages. Mr. Schmidt obtained the settlement by employing New Jersey's "Offer of Judgment" Rule, before even undertaking discovery. By quickly identifying the technical and legal weaknesses of Plaintiff's case and immediately filing a low, but fair, Offer of Judgment, Able to use the threat of nearly complete fee-shifting as leverage to favorably settle the case quickly.
- Assisted a client to avoid unnecessary costs and time to remove building materials deemed to contain asbestos by recognizing that previously-sampled materials could be re-analyzed using a more specific analysis. That analysis revealed the absence of asbestos, saving the client substantial removal costs, additional costs to demo and rebuild the space, and the revenue the client would have lost during the removal.
- Secured a favorable settlement on behalf of a client joined late in litigation for allegedly causing the collapse of subsurface structures on an adjoining property due to improvements made on the client's former property. Convinced plaintiff to dismiss its only claim which could allow plaintiff to recover litigation fees, and then attacked plaintiff's proposed expert in a pretrial motion. In the end, successfully resolved the client's exposure for approximately 8.5% of the final settlement amount, leaving prior and subsequent owners of the client's former property to pay the remaining amount.
- Successfully litigated the appeal of a point source discharge permit for the largest gold mine in the State of Colorado, involving significant precedent-setting federal and state legal issues and complex technical issues requiring the expertise of multiple disciplines.
- Litigated federal and state civil actions brought by several homeowner groups against Marcellus Gas production and drilling companies for impacts to private drinking water wells.
- Assisted numerous developers in satisfying City of Philadelphia's stringent stormwater control requirements on challenging properties and managed the clients' various consultants in order to ensure efficient, timely completion of necessary activities.
- Litigated a precedent-setting Title V Operating Permit appeal before the Pennsylvania Department of Environmental Protection (PADEP) concerning how PADEP may determine that fugitive emissions are significant.
- Represented the installer of an underground storage tank system in an action brought by the owner/operator of a gasoline station following the release of gasoline. Quickly investigated the release and tank registration history and successfully tendered a claim with the Pennsylvania Underground Storage Tank Indemnification Fund (USTIF) within the thirty (30) day deadline for doing so.
- Represented a consulting firm in a suit seeking approximately \$10 million in actual and treble damages for alleged failure to identify building defects during buyer's due diligence investigation of a multi-building apartment complex.
- Won the early dismissal of a serious bodily injury action filed in Philadelphia Common Pleas Court against an environmental contractor. Obtained sufficient evidence during streamlined discovery to demonstrate the contractor's duties did not include removing the specific materials, which resulted in the plaintiff's alleged injuries.

- Completed a complicated sale of a former manufacturing plant in Edison, New Jersey on behalf of the seller. What made the transaction difficult was the presence of contaminated soil under the building, threatening perpetual contamination of groundwater.

### **Affiliations**

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- Delaware Valley Environmental Inn of Court