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New Jersey & Pennsylvania – Law Firms

A Philadelphia Lawyer Talks About Excellence In The Profession (And Walks The Walk As Well)

The Editor interviews Gregory P. Miller, Drinker Biddle & Reath LLP.

Editor: Mr. Miller, would you tell our readers something about your professional background?

Miller: I first came to Philadelphia in 1975 as a young lieutenant in the U.S. Navy's Judge Advocate General Corps. I became attached to the city and decided to stay on with my family when my tour of duty came to an end in 1978. My first job out of the Navy was with the U.S. Attorney's Office, which gave me an opportunity to meet many of the great lawyers in Philadelphia and to try cases in front of several of the legends of the federal judiciary. I was with the U.S. Attorney's Office from 1978 to 1985, and during the final two years I served as chief of the Criminal Division. I tried a number of significant health care fraud cases during that period.

Editor: Why were these cases such a particular focus of the U.S. Attorney's Office at the time?

Miller: During the early 1980s there was a great deal of publicity concerning alleged fraud in the Medicare and Medicaid programs. I testified in congressional hearings at that time, and as a result of these hearings, at least in part, the Department of Justice and the U.S. Attorneys were allocated additional resources to pursue these allegations. There was a statute, not frequently invoked, which addressed the issue of whether physicians

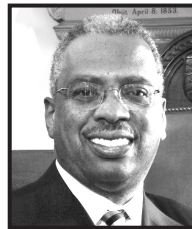
who received benefits of one kind or another from health-care institutions to which they referred patients were violating the law. The concern, of course, was that they would be inclined to make more referrals and order more services if they had a financial incentive to do so. That led to the prosecution of a case called *United States vs. Greber* that, in turn, spawned a wave of anti-kickback cases, as well as legislation and regulations governing what was appropriate, and what was not, concerning physician referrals to organizations with which they had a business relationship or interest.

Editor: In 1985 you left the U.S. attorney's office.

Miller: I joined a small firm and then, in 1989, started my own firm. Much of my practice involved the representation of governmental agencies, including the Federal Deposit Insurance Corporation and the Pennsylvania Insurance Department, as well as some major corporations.

Editor: Would you tell us something about the defense procurement fraud litigation that you handled during this period?

Miller: One of the first cases that I tried upon entering private practice was on



Gregory P. Miller

behalf of an executive of General Electric. The company and two of its executives had been charged with defense procurement fraud. The case was extremely complicated and went on for almost four months. It marked the high point of the government's reaction to alleged abuses by governmental contractors during this time. In light of what we read about alleged procurement fraud in connection with Iraq, it appears that we may be in for another round of this type of case.

Editor: And the securities litigation you continue to handle?

Miller: Over the course of my career in private practice I have handled a variety of matters involving the SEC. I have also represented individual directors and officers of public companies in different types of actions, including class action securities cases brought against the individuals and the company. My assessment of the more newsworthy investment market issues, including the subprime mortgage crisis, is that we are going to see an increase in this type of litigation, both from an enforcement standpoint by the SEC and by the plaintiffs' class action bar.

Editor: The title Counsel to the Insurance Commissioner of Pennsylvania sounds pretty impressive. What did that entail?

Miller: At my prior firm, I was actively involved in situations where the Insurance Commissioner would take over insurance companies in financial distress and retain

Please email the interviewee at gregory.miller@dbr.com with questions about this interview.

firms to evaluate the causes of the problem and, if appropriate, pursue those responsible. I spent 10 to 15 years handling cases on behalf of the Pennsylvania Insurance Department.

Editor: You have also been a special master and engaged in mediation work. These are court assignments?

Miller: They are sometimes court assignments. There are also occasions where the parties independently select me to assist them in working through issues. With respect to my special master role in the Fen Phen litigation, almost 10 years ago I was appointed by Chief Judge Louis Bechtel of the U.S. District Court for the Eastern District of Pennsylvania to be the special master for the Fen Phen litigation that was before him. All of the actions brought in the federal courts alleging claims based on the ingestion of Fen Phen were consolidated in the Eastern District of Pennsylvania. Under the direction of the court, I coordinated all of the discovery in those cases and kept them moving until, at this point, we are down to fewer than 500 remaining cases.

Editor: You have also been engaged in the difficult area of legal ethics. Would you tell our readers something about that work?

Miller: About 10 years ago I was named to the Disciplinary Board of the Supreme Court of Pennsylvania. The board has responsibility, under the direction of the Court, to hear actions involving attorney conduct and to consider, and make recommendations on, appropriate disciplinary action to the Court. I spent some six years on the board and, unfortunately, we were very busy.

While serving on the Disciplinary Board I was appointed to serve as Chair of the Rules Committee by the Pennsylvania Supreme Court. This entailed evaluating the rules governing the ethical behavior of the legal profession and ensuring that members of the profession were aware of their obligations. This is something in which the American Bar Association has a great deal of interest, and part of my responsibilities was to assess the recommendations of the ABA and determine whether they should apply to Pennsylvania, in which event the Rules Committee would make its own recommendations to the Court.

Finally, I have just finished my term as Chair of the Pennsylvania Board of Law Examiners. This entailed – again, under the direction of the Pennsylvania Supreme Court – ensuring that the bar examination is fair, consistent and properly graded. In addition to administering the exam, the Board of Law Examiners holds hearings on the suitability of particular candidates for admission to the bar where those individuals may have some prior questionable conduct. It also considers applications by prospective lawyers for accommodations during the exam. For example, handicapped individuals may request additional time to take the exam, and the examiners consider the requests and make every effort to ensure that everyone has a fair opportunity to pass the exam.

Editor: All of this represents an extraordinary contribution to the profession. Would you share with our readers your thoughts about the obligations that lawyers have to give something back?

Miller: I look upon this type of contribution as an opportunity rather than as an obligation. I am personally quite proud to be a member of the bar, and I am distressed at the negative image often associated with lawyers. I think the best way to counter this kind of misperception is through pro bono service. Helping others, particularly those who are not in a position to help themselves, is its own reward. But, it also enhances the image of the profession in the public eye.

Editor: Your recognition by a variety of professional associations is extraordinary. You are a Fellow of the American College of Trial Lawyers, a Fellow of the International Society of Barristers and, for the past three years, you've been named a Pennsylvania Super Lawyer. This did not just happen. Would you share with us what led to these awards?

Miller: Well, I am extremely flattered to have received this recognition. These are awards that a lawyer cannot seek but rather result from the recommendations of his or her colleagues. They derive, I think, from a reputation one builds over many years. That reputation, in turn, is built on doing the very best legal work possible, on representing the client's

interests diligently, on being considerate of others, including adversaries, and on being supportive of the court system and the judiciary. It seems to me that a lawyer who acknowledges these as principles of professional conduct and implements them as part of his or her practice is going to be recognized.

Editor: You have not told us how you came to Drinker Biddle.

Miller: I came to the conclusion that I needed to be with a larger firm about a year ago. I considered many firms, but my discussions with Drinker Biddle's Chairman, Alfred Putnam, were particularly important. I have known Alf for many years and have developed a great deal of respect for him and for his colleagues. The more time that we spent together, the more I became convinced that Drinker Biddle mirrored what I thought about professional excellence, devotion to clients, commitment to the bar and to the community, and the importance of a workplace environment where everyone is comfortable and has an opportunity to progress professionally. On the latter point, I was bringing along about 11 lawyers, four paralegals and two secretaries, and I felt a real sense of responsibility to introduce them to a setting where they would feel at home. The decision to join Drinker Biddle involved more than my finding a larger platform from which to serve my clients. It was also based on having a certain comfort level so that the people who came with me would find an appropriate platform for their future development. I am glad to report that the move has been a great success.

Editor: How does your practice at Drinker Biddle appear to be evolving?

Miller: The firm has a stellar list of clients, including many *Fortune* 500 companies. There is a strong desire to maintain and, if possible, increase the volume of business from these companies, and I have been meeting with many of them. I certainly believe that I am in a position to help the firm in these efforts, and I look forward to continuing to provide a terrific group of clients with legal services of the very highest quality. I think the firm is in a wonderful position in the legal markets that it serves, and the future looks very promising.