

# James P. Cullen

Associate

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As a member of Marshall Dennehey's Casualty Department, James focuses his efforts on defending clients in general liability matters, including cases involving products liability, premises liability, and automobile liability. James has successfully defended clients in all aspects of litigation in both state and federal court, including obtaining defense verdicts at the magistrate court level and favorable arbitration rulings before the Allegheny County Arbitration panel. His jury trial experience includes second chair defense counsel in a premises liability case involving a defective stairway and landing in Allegheny County. Additionally, James was an integral member of a litigation team that achieved a Voluntary Stipulated Dismissal on behalf of a product distributor client from national multidistrict litigation (MDL) arising from the manufacture and sale of medical devices. Further, James was a member of a trial team that obtained a defense judgment in a product liability claim involving damages alleged in excess of \$30 million.

Before joining Marshall Dennehey, James gained litigation experience at a medium-sized civil defense firm as well as experience representing clients in mass toxic tort matters in Pennsylvania and West Virginia.

James graduated sixth in his class from Capital University Law School in 2018. During law school, he served as both a Staff Member and Associate Board Member of the University's Law Review, where he sharpened his legal research and legal writing skills to prepare for his career after graduation.

James also interned at the Pennsylvania Superior Court for the Honorable Mary Jane Bowes in 2017, where he researched and drafted memorandum opinions while working closely with the Judge's staff. In 2018, James interned at the Allegheny County District Attorney's Office where he worked directly with Assistant District Attorneys preparing for trial.

James is licensed to practice law in Pennsylvania and West Virginia and is also an active

## Practices

- General Liability
- Automobile Liability
- Premises & Retail Liability
- Product Liability

member of the Allegheny County Bar Association, often volunteering to serve as a judge/juror for high school mock trial competitions. James is also a member of the American Bar Association.

## Education

- Capital University Law School (J.D., *summa cum laude*, 2018)
- Slippery Rock University (B.S., 2015)

## Admissions

- Pennsylvania, 2018
- U.S. District Court Western District of Pennsylvania, 2018
- West Virginia, 2019
- U.S. District Court Southern District of West Virginia, 2019
- U.S. District Court Northern District of West Virginia, 2024

## Associations & Memberships

- Allegheny County Bar Association
- American Bar Association
- Defense Research Institute

## Published Works

- "Grossly Underestimated: Exploring Gross Negligence and Liability Waivers in Pennsylvania Premises Liability Law," *PAMIC Pulse*, Fall 2024

## Significant Representative Matters

- Successful defense in \$30 million product liability trial. Served as second chair in a high-stakes product liability trial, obtaining a major defense result for our client. Plaintiff's final pre-trial demand was \$22 million with claimed exposure exceeding \$30 million. Plaintiff alleged that compressor systems designed and sold by our client caused weld debris and excess lubricating oil to contaminate a natural gas pipeline, leading to multimillion-dollar losses at a power plant. Through material testing and expert testimony, the defense demonstrated that the weld debris allegations were unfounded and that Plaintiff's own design, maintenance lapses, equipment failures, and poor system response were the more likely causes. The Court found Plaintiff failed to meet its burden of proof, and our client paid nothing despite the significant claimed exposure.

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## Results

### Defense Verdict Obtained After Seven-Day Bench Trial

We received a defense decision after a seven-day bench trial in a product liability action in which the exposure in the case exceeded \$30 million. Our client designs, sells and services engineered equipment for the energy industry, including natural gas compression apparatuses for use in transmission pipeline systems. In 2015, the client

sold the plaintiff two reciprocating compressor systems to replace outdated equipment at a station located near Downingtown, PA. The compressor systems were designed to inject oil into the gas stream for piston lubrication. This lubricating oil needed to be removed from the gas stream using filtration devices supplied by the plaintiff. The plaintiff claimed weld debris contained within certain vessels of the compressors migrated downstream upon commissioning and compromised several gas filtration devices. The plaintiff further contended the damaged filtration devices permitted excess lubricating oil into the pipeline, which fouled multiple turbines owned by its downstream customer at a large natural gas-fired power plant, causing significant economic losses. The applicable contract between the plaintiff and our client contained a forum selection clause requiring litigation to take place in Lake County, Indiana. The plaintiff claimed commercial losses of \$18 million, plus attorney fees (per contract) in the neighborhood of \$4 million. The plaintiff also maintained it was entitled to pre-judgment interest. If successful in establishing liability, this sum would have added another \$5 million to \$7 million to the damage award, depending on the interest rate employed by the court. Therefore, the pure exposure in the case exceeded \$30 million. In response to the plaintiff's claims, we successfully established that the weld debris incident was a red herring and did not damage the filtration equipment. Material testing of debris from within the filtration devices revealed very little weld debris compared to pipe scale and other naturally occurring components. Through key expert testimony, we established that the plaintiff could not meet its burden of proof because the oil contamination events may have been caused by several factors directly attributable to the plaintiff's lack of design engineering, inadequate equipment maintenance, equipment failure and inappropriate response to system alarms.

### **Summary Judgment Secured in a Neighborhood Dispute Alleging Excess Water Runoff**

We obtained summary judgment in the Westmoreland County Court of Common Pleas in favor of our clients in a dispute over alleged excess water runoff. Our clients, a married couple, were sued by their neighbors for claims related to water runoff due to the installation of gutters and downspouts on a shed near the property line. We effectively argued for summary judgment on the plaintiffs' injunction, trespass, nuisance and negligence claims, demonstrating that the plaintiffs lacked the necessary expert testimony to substantiate their case as required under Pennsylvania law. Additionally, the plaintiffs' negligence claim was barred by the two-year statute of limitations, which had expired at least six years before the suit was filed.

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## Thought Leadership

October 1, 2024

### **Grossly Underestimated: Exploring Gross Negligence and Liability Waivers in Pennsylvania Premises Liability Law**

October 1, 2022

**Gross Enough? A Dive Into Gross Negligence in Pennsylvania Premises Liability Law**