Miller & Martin's Workplace Environmental, Health & Safety Group provides responsive, practical legal representation for employers dealing with the U.S. Department of Labor's Occupational Safety and Health Administration (OSHA) and related State Plan Agencies, as well as the Federal Mine Safety and Health Administration (MSHA).

In addition to assisting employers with enforcement efforts, the Workplace Environmental, Health & Safety Group counsels employers on the impact that health and safety compliance obligations, related enforcement initiatives and regulations have on their operations and overall risk portfolio. We routinely assist our clients with plant and facility audits and workplace hazard assessments. Our attorneys also represent employers faced with whistleblower claims investigated and prosecuted by OSHA.

SELECTED EXPERIENCE

- Represented national bridge and highway construction contractor in OSHA enforcement action related to multiple fall fatalities at an interstate highway bridge construction site. Managed all OSHA investigation and enforcement aspects of this matter and negotiated favorable OSHA settlement, including downgrade of "willful" gravity citation and $37,000 penalty reduction.
- Represented national manufacturing company related to 13 citations regarding a chemical explosion at a processing facility. Resolved all issues related to chemical explosion including the outright dismissal of six of the 13 citations including citations for IDLH, respiratory and other PPE. Successfully negotiated a 25% reduction in the monetary penalties for the remaining citations, and assisted client with post citation health and safety compliance matters.
- Multiple representations, defenses and resolutions for diverse group of manufacturers relating to chemical explosions, highly hazardous chemicals, "IDLH" chemical scenarios, process safety management, engineering controls and general safety citations. Representations have included interactions with Worker's Compensation and general liability and third-party insurance carriers and insurance investigations.
- Represented regional industrial services client in arc flash/electrocution caused by contractor and subcontractor and involving injuries to multiple employees. Managed multi-party expert and insurance carrier investigations. Obtained — in less than 60 days — OSHA case closure letter and acknowledgment of no fault or responsibility as to client, resulting in termination of OSHA investigation as to client.
- Represented contractor client in OSHA multi-employer worksite investigation and enforcement of 40-foot fall and critical injury to employee. Assisted client with OSHA investigation, assertion of claims against third-party contractor responsible for incident and litigation of OSHA citations.
- Represented international manufacturing company in connection with OSHA investigation into machinery-caused injury and related employee hospitalization related to subcontractor conduct. Worked with OSHA inspectors to investigate, to determine root causes and to conclude investigation, with no further action recommended against client, all within 10 days from the date of injury.
- Represented regional industrial contracting company in connection with employee fatality at multi-employer manufacturing worksite. Assisted client with emergency response to fatality, interacted with medical examiner, and managed client's OSHA fatality investigation including disputed cause of death, insurance claims, citation matters and sensitive interactions with other employer parties.
- Represented regional bridge contractor in connection with employee fatality caused by collapse of crane apparatus during interstate construction project. Assisted client with emergency response, interaction with Department of Transportation, insurance matters and OSHA investigation. Negotiated reduction of "serious" gravity charges to non-serious gravity, along with $5,000 penalty reduction.
- Represented international manufacturer in an extensive OSHA inspection (arising from critical injury of employee), citations and settlement. Alleged citation violations included hazard communication, lockout tagout, hazardous materials storage procedures and robotic machine guarding standards. The matter was resolved with significant reduction in penalties assessed to the client and negotiation of reasonable abatement.
- Represented automobile components manufacturer in OSHA action alleging excessive noise levels related to manufacturer's process equipment, as well as multiple record-keeping violations. Obtained dismissal of all noise-related violations, allowing the client to avoid hundreds of thousands of dollars in engineering control and recalibration costs and negotiated substantial reduction

of all other penalties.

- Represented national industrial services and general contractor in OSHA enforcement action related to multiple industrial hygiene and workplace hazard OSHA citations. Managed OSHA investigation and successfully negotiated OSHA settlement to downgrade citations to “other than serious” and to reduce monetary penalties by 50%.
- Represented national industrial contractor in fall fatality sustained by employee during plant shutdown. Miller & Martin negotiated the dismissal of all citations and monetary penalties associated with the fall fatality. The remaining citation was downgraded to “other than serious,” with an overall penalty reduction of $5,000.
- Represented national logistics company in whistleblower complaint brought by former managerial employee. Representation included initial investigation, development of defense strategy, case management and litigation of whistleblower complaints brought under both OSHA and Food Safety Modernization Act statutes. The U.S. Department of Labor granted complete dismissal of all allegations and charges.
- Obtained, in just nine weeks, for national highway construction company, complete dismissal of workplace safety whistleblower and retaliation complaints filed with OSHA by five former employees.
- Represented national commercial and industrial construction contractor in fall fatality enforcement matter related to installation of “leading edge” roof decking on a manufacturing facility. Successfully concluded investigation with no OSHA citations being issued.
- Represented regional highway and bridge construction company in MSHA enforcement matter at a regulated mine site. Negotiated complete elimination of significant and substantial “S&S” gravity citations, resulting in a nominal penalty.
- Represented national motion picture studio in multiple OSHA complaints alleging industrial hygiene, hazard communication, fall protection, forklift training, and respirator use violations. Resolved all alleged complaints and accomplished complete closure and dismissal of the matter.
- Represented national trucking and logistics company in OSHA wall-to-wall inspection and subsequent citations alleging violations relating to fall protection, lock-out/tag-out, respirator use, forklift training, and hazard communication training. Miller & Martin managed the inspection and subsequent settlement, obtaining reduction of serious gravity violations and penalties and negotiation of reasonable and cost effective abatement.
- Represented textile manufacturer in extensive OSHA investigation related to engineering controls to abate amputation risks. Provided advice and counsel on managing a month-long inspection process, conducting employee interviews and protecting the company from burdensome requests to re-create and stage machinery operations.
- Represented manufacturing client after a subcontractor’s employee was killed in an industrial accident at the client’s facility. Assisted in managing an immediate OSHA inspection and investigation such that the client was promptly absolved of liability by OSHA. Further assisted with immediate preparation and distribution of written statements to multiple media outlets asking for real-time information about the accident.
- Represented regional mechanical contractor in OSHA enforcement action related to fall fatality, including compliance related to 8-hour fatality notification obligations. Negotiated complete dismissal of citation alleging employer’s violation of OSHA General Duty clause and substantial reduction in proposed penalties related to remaining citations.
- Represented multi-national company in OSHA action alleging multiple willful and serious asbestos-related violations. Assisted client with abatement of violations and advised on asbestos regulatory compliance.
- Represented automotive manufacturer in OSHA enforcement related to health issues and presence of temporary employees. Assisted in developing and submitting a response to the enforcement authorities, resulting in the matter being closed without further action, enforcement or penalties.
- Represented construction company in OSHA action alleging 34 willful asbestos-related violations. Litigated with OSHA for reduction in monetary penalties.
- Represented construction company in OSHA action resulting from a fatality after an employee fell from a roof. Successfully negotiated a 40% reduction in penalties.
- Represented plastics manufacturer in investigation by OSHA into allegations of improper chemical storage and work conditions. Successfully avoided on-site investigation by assisting client in conducting full internal investigation and proactively reporting to OSHA.
- Represented consumer products distributor in connection with OSHA complaints regarding water and sanitation issues. Assisted client in taking immediate corrective action, thus preventing any citations or formal enforcement action.

RELATED PRACTICES

- Appellate
- Construction
- Crisis Management

- Government Relations
- Insurance Litigation
- Labor & Employment
- Life Sciences
- White Collar & Corporate Investigation

RELATED ATTORNEYS



Larry Cash
CHAIR

Member
423.785.8394 | Email

Jessica Wolinsky

Scott Simmons

Rachael Ruiz

Bill Trumpeter

Jimmy Daniel