



John E. Schiller

Partner | Litigation

216.928.2941

jschiller@whburkley.com

OVERVIEW

John is a partner in WH Burkley's Litigation Group. He brings over 25 years of experience representing clients in complex business disputes, trust, partnership and shareholder disputes, contract disputes, real estate disputes, and cases involving a variety of business torts. John also has significant health law-related experience and has litigated diverse health law-related cases including physician disputes, Employee Retirement Income Security Act of 1974 (ERISA) class actions, and regulatory matters.

In July 2010, John was recognized for his professional rectitude by a client who endowed a chair in his name at the Maurer School of Law at Indiana University. The prestigious \$1.5 million endowment, the John E. Schiller Chair in Legal Ethics, is a lasting testament to both the quality of John's work and his professionalism. Read more about the endowed Chair [here](#). He is also a member of the Million Dollar Advocates Forum.

EXPERIENCE

BUSINESS / COMMERCIAL

- In April 2021, John and his partner Jamie Price successfully enforced a promissory note in a trial conducted by Zoom in the United States District Court for the Southern District of Florida. In a written Verdict and Order the Court found the position taken by the defendant not to be credible. Civil Action No. 19-24355-Civ-Scola. This is the fourth consecutive trial victory for John and Jamie in the past 3 years.
- Litigation against a dual U.S. and Argentine citizen in Mendoza, Argentina. The case involved a business relationship between two partners. John's client financed two projects in Mendoza, Argentina, a vineyard and a gated residential community. The defendant was

responsible for the operation and management of the entities. In September 2015, after ten years of working with the defendant, it was discovered that he had committed breaches of fiduciary duty, theft and fraud. He was also attempting to use power of attorney documents to sell real property and abscond with the proceeds. John was tasked with protecting the existing assets and recovering stolen funds and properties. He immediately assembled a team with attorneys from Argentina, Chile and Miami, as well as other professionals, and began a process that resulted in the revocation of all power of attorney documents and a Judicial Order from a Court in Mendoza freezing all of the defendant's assets which led to a very favorable settlement. Normally civil litigation in Argentina takes over six years to resolution, but John was able to end the matter to his client's satisfaction in only 11 months. The case was resolved with the separation of the defendant from all business relationships with the plaintiff and the return of property and other consideration. John's involvement as lead counsel was to assemble the litigation team, make all strategic litigation decisions, appear in Mendoza for all litigation activities with local counsel (including required investigative work), and participate in direct negotiations with the defendant. The majority of the work was conducted in Spanish. John made over ten trips to Mendoza to bring the matter to a conclusion. John is now responsible for oversight of all of his client's assets in Argentina.

- John served as lead counsel in a hotly contested shareholder dispute in Des Moines, Iowa that took four years to reach conclusion. The case involved deadlocked shareholders. One in Iowa and two in Ohio. John represented the two from Ohio. The case began with the Iowa shareholder suing John's clients derivatively in State Court in Des Moines while at the same time high-jacking the company bank accounts. The case finally came to trial in 2017 on the plaintiffs' claims and John's clients counterclaims. The trial was adjourned in mid-stream when it was revealed to the Court that the Plaintiff and corporate counsel had failed to produce relevant material evidence. This evidence included a true "smoking gun" email that led the Court to write "The Court is profoundly concerned about Attorney advice and considers it advocacy by deception". After a bench trial concluded in the summer of 2017 the Court issued 30 page opinion finding in favor of John's clients on every issue and claim in the case and awarding John's client's all the relief they requested including an award of punitive damages and attorney fees. [Review a copy of the opinion.](#)
- Won jury verdict of \$1.8 million for a Texas-based manufacturer who sued a Fortune 200 company for breach of a supply agreement. The case was tried for a week in federal court. The verdict included five years of lost future profits. Payment was made without delay or appeal. *Houston Die Casting v. Eaton Corp. (N.D. Ohio, J. Adams, 2005)*.

- Successfully represented an Ohio manufacturer and three of its employees in the defense of a complaint alleging the theft of trade secrets and other business torts. The matter was settled after the plaintiff unsuccessfully attempted to remove the case to federal court the day the trial was to begin. The public settlement included a statement that, based on the evidence heard, the plaintiff no longer believed that the defendants had committed theft or misappropriation as originally claimed.
- Obtained a directed verdict for a client after a jury trial in Stark County Court of Common Pleas. The case involved allegations that John's client had committed professional negligence in connection with the vetting of an entity that provided stop-loss protection, but failed to pay certain claims. After the close of evidence, the court heard argument and ruled in favor of John's client and dismissed the case in its entirety.
- Won a unanimous jury verdict for a client who was sued by a law firm for legal fees. After a trial that took almost four days, the law firm was found liable to the client on a counterclaim and the client was awarded damages.
- Represented a manufacturer of specialty machine parts in a breach of contract action tried to a state court jury. The plaintiff sought damages in excess of \$150,000. The jury awarded the plaintiff only \$5,000.

TRUSTS AND ESTATES

- In January 2019, John served as lead counsel in a trial in Probate Court in Cuyahoga County, Ohio in the defense of the estate of a the matriarch of a high net worth family against a claim by two of her adult children that her will and trust were the product of undue influence exerted by the youngest of her five children. John represented the accused and the two other adult siblings who were named both individually and as executors and trustees in the case. With the help of his colleague Jamie Price, and other good and able lawyers hired by the individual defendants, John coordinated a strategic defense of the case based on the firm belief that the plaintiffs would not prevail at trial because no undue influence ever occurred. In an example of less being more, John allowed the witnesses for the plaintiffs to establish that no undue influence had taken place. At the close of the plaintiffs' case, John moved the Court for a directed verdict. Though rarely granted in a jury trial, the Judge in this case agreed that Plaintiff had not presented sufficient evidence on the substantial elements of their case for it to proceed further with the jury. John's Motion for a Directed Verdict was granted. This was an extraordinary result and one that demonstrates the value of thorough preparation and effective lawyering.

- In November 2018, John successfully defended a Trustee of an ultra-high net worth family Trust against claims that his client, both individually and as the president of a family office, breached certain fiduciary duties by failing to properly oversee the management of trust assets. The gist of Plaintiffs' claim was that our client allowed the investment manager charged with overseeing the Trust to invest too heavily in precious metals and in particular, gold. The Plaintiffs also sued the investment manager who successfully argued that a short statute of limitations applied leaving our client as the principal target. Rather than succumb to demands for millions of dollars in alleged "damages" our client chose to proceed to trial. During five days of trial before a jury, with the help of his colleague Jamie Price, John demonstrated that the claims against his client were wholly without merit. This led to the dismissal of all claims against John's client before the Plaintiff rested its case. In other words, the Plaintiffs gave up. This outcome completely vindicated our client who was deeply appreciative of John and Jamie's efforts.
- Represented the beneficiaries of an ultra-high-net-worth family trust. The litigation involved a claim for trustee fees and counterclaims for breach of fiduciary duty and was litigated in federal court for almost two years. The matter was resolved with a confidential settlement. (*Jacobs v. Jacobs*, Case No. 1:07-CV-01043, U.S. District Court for the Northern District of Ohio, J. Boyko)
- Represented the beneficiaries of a trust in resolving a dispute with a trustee arising from certain investment decisions made by that trustee. The amount at issue was in excess of \$1 million and was resolved without litigation.
- Represented a charitable beneficiary of a trust in litigation in Lorain County, Ohio over a period in excess of eight years. The case was essentially a challenge by relatives of the deceased who were not provided for in the decedent's estate plan. Even though the trial court initially ruled in favor of the defendants and against the challengers based on a video tape of the execution of the estate plan documents, the case included two appeals. It was ultimately settled to our client's satisfaction on the eve of trial.
- John is currently involved in a number of other contested family wealth transfer matters.

REAL ESTATE

- In 2015/16 John successfully defeated a lawsuit brought by a co-owner of a parcel of real estate against a public entity that was a co-owner of the property and a subtenant of the parcel pursuant to a 99 year ground lease. The parcel was part of an important public development project financed through the sale of bonds. The plaintiff filed a complaint

alleging, among other claims, a breach of fiduciary duty arising from the co-ownership of the land and a claim that the lease was in default due to a failure to timely pay rent. Given the magnitude of the development project and the public financing the stakes were extremely high. After John convinced the Court that it could adjudicate the claims without depositions or further discovery the trial court granted John's client summary judgment on all claims. This decision was unanimously affirmed by the Eighth District Court of Appeals. See *Herrick-Hudson L.L.C v. Cleveland-Cuyahoga County Port Authority*, Case No. CV-13-804221 (November 10, 2016).

- Won a declaratory judgment action seeking to enforce a five-year renewal option in a commercial lease for a casino operator in Reno, Nevada. It was a bet-the-company case because the casino operator could not relocate and if the Court did not enforce the option the client would be out of business. The case was tried before a 12-person advisory jury whose unanimous decision in favor of John's client was adopted by the Judge. The case was filmed as part of a pilot program for the United States District Courts and will be archived at the United States Supreme Court. (*Sierra 76, Inc. v. TA Operating, LLC*, Case No. 1:11-CV-1264, United States District Court, Northern District of Ohio).
- Defended a New York State homebuilder against a multi-million dollar breach of contract claim in a New York court. After selling land to our client, the plaintiff brought suit for a myriad of claims including fraud, breach of fiduciary duty, breach of contract, and executory accord. All claims other than the contract claims were voluntarily withdrawn by the plaintiff after John took depositions and filed a motion for summary judgment. On the eve of trial, the \$2 million claim for breach of an executory accord was settled without payment. The remaining claim was resolved for a nominal sum.

HEALTH CARE

- Won an arbitration award of \$592,000 for a physician client against his former medical practice. The practice refused to pay agreed-upon severance to John's client when he left the practice claiming that the physician had breached his fiduciary duty and had committed fraud. The group sought damages in the amount of \$1 million. After depositions, briefing and a hearing, the arbitrator awarded John's client the full amount of his claim plus interest.
- Successfully represented a physician in a challenge to a summary suspension of his hospital privileges by a government hospital and termination of employment at a teaching hospital. See [A Physician's Last Chance](#).

- Represented a physician in a challenge to his summary suspension and loss of employment. John brought an action in federal court that resulted in a confidential settlement that allowed his client to continue to practice his specialty and enjoy the fruits of many years of education and training.
- From 1991 to 1997 John was one of a team of outside counsel for a major regional health care insurer. During this time he was involved in a variety of complex litigation matters and class action cases, including litigation arising out of the liquidation of the West Virginia Blue Cross and Blue Shield Plan. (*Charleston Area Medical Center, Inc. v. Blue Cross and Blue Shield Mut. of Ohio, Inc.*, 6 F.3d 243 (C.A.4), 1993). John's work on this matter continued with the representation of the health insurer in connection with an investigation by the Senate Permanent Subcommittee on Governmental Affairs, which in 1993 conducted a high profile investigation into the insolvency of the West Virginia plan and the solvency and business practices of a number of the participants in the Blue Cross System and the Blue Cross Association.

INTELLECTUAL PROPERTY

- Represented a life science company in a dispute with a major university and hospital system over the ownership of a patent. Communications between the entities had clouded ownership of the patent at issue and created a major obstacle to the further development of the patented technology. In September 2013 John brought a declaratory judgment action in state court to remove the cloud on ownership. The defendants removed to federal court. The judge was persuaded that the matter would be resolved if the parties were to exchange "proof" of a key fact without the time and expense of formal discovery. John's client was more than willing to participate in this process, knowing it would be to its benefit and would possibly eliminate years of costly litigation. This process led to a confidential settlement in June 2014 that allowed John's client to proceed with the further development of the patent. Rather than being mired in litigation for years, John's client was free of the problem in only nine months and enabled to obtain significant additional financing.

TAX

- In a case that garnered national attention in tax circles, John challenged an IRS decision denying John's client access to the IRS's e-file system. He brought an action in the United States District Court for the Northern District of Ohio asserting that the IRS refusal to allow his client to e-file was arbitrary and capricious. After both sides moved for summary judgment, the IRS reversed its position and the client obtained his EFIN without any further litigation. (*Davis v. IRS, et. al.*, Case No. 1:14-CV-00261, United States District Court for the

Northern District of Ohio, J. Solomon Oliver).

ENTERTAINMENT LAW

- John had the privilege of becoming a close friend, representative, and advisor to the late Solomon Burke, a Rock and Roll Hall of Fame Inductee and 2002 Grammy Award winning singer. John was involved in Solomon's renaissance beginning in 2000 and continuing until his passing in 2010, during which time Solomon recorded multiple CDs, received multiple Grammy nominations, performed in 20 countries, and appeared prominently in the music film, "Lightning in a Bottle," produced by Martin Scorsese.

RECOGNITION

- *Best Lawyers* –Commercial Litigation (Ohio) | 2020-present
- *Best Lawyers* – Litigation – Real Estate (Ohio) | 2020-present
- *Best Lawyers* – Litigation – Trusts and Estates (Ohio) | 2020-present
- *Super Lawyers* – Business Litigation (Ohio) | 2022-present
- John Schiller was honored for his professional rectitude by a client who endowed a \$1.5 million Chair in Legal Ethics in his name at the Maurer School of Law, Indiana University at Bloomington. The person who holds the John E. Schiller Chair in Legal Ethics can specialize in any area of the law, but must demonstrate a commitment to the highest standard of legal professional ethics through her or his teaching, scholarship, and service. Professor Hannah Buxbaum currently holds the Chair. [Read more about the endowed Chair here.](#)
- The *Journal of Financial Services Professionals*, through its Kenneth Black, Jr. Journal Author Award Program, recognized John E. Schiller for his article, "Trustee Liability: A Litigator's Perspective." John's article placed second among the top three pieces published in the Journal, as determined by an independent panel of judges. Named in honor of Kenneth Black, Jr., Ph.D, CLU, and editor of the Journal for 41 years, these awards were issued on the basis of the originality of the authors' research and on the articles' clarity, timeliness and appropriateness for the Journal's readership.

PRESENTATIONS

- "Effective Trial Practice," Ohio State Bar Association (OSBA), 2016

ASSOCIATIONS

- Cleveland Metropolitan Bar Association (CMBA) Task Force on Civility and Professionalism
| Former Member

EDUCATION

- Case Western Reserve University School of Law, J.D.
 - *Winner of the Best Oral Advocate, Dean Dunmore Moot Court Tournament*
- University of Virginia, B.A.

FOCUS

- Litigation

NEWS

- WH Burkley Attorneys Named to Best Lawyers 2027 Edition
- Mark Fusco and John Schiller Author Update in Thomson Reuters Practical Law - State Q&A Guide for Fraud: Ohio
- Ohio Super Lawyers Honors Walter Haverfield Attorneys
- More Than a Third of Walter Haverfield Attorneys Recognized by Best Lawyers®
- Ohio Super Lawyers Honors Nearly 20 Percent of Walter | Haverfield Attorneys
- Nearly Half of All Walter | Haverfield Attorneys Recognized by Best Lawyers®

LICENSED

- Ohio
- U.S. District Court, Northern District of Ohio
- U.S. District Court, Eastern District of Michigan
- U.S. District Courts, Northern and Southern Districts of Iowa

- U.S. Courts of Appeal for the Fourth and Sixth Circuits

OFFICE

- Cleveland