

Barry M. Hartman

Partner

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OVERVIEW

Barry Hartman represents companies and individuals in criminal and civil investigations, trials, and appeals primarily involving complex federal regulatory programs, with an emphasis on environmental matters, and advises clients on compliance with those programs. He also conducts internal investigations, counsels clients regarding corporate compliance programs, and represents clients in Congressional investigations regarding lobbying, ethics, and related issues. He has represented clients in industries including maritime, energy, pharmaceuticals, healthcare, recycling, chemicals, manufacturing, and real estate.

PROFESSIONAL BACKGROUND

Prior to joining the firm in 1992, Barry served in the United States Department of Justice as Acting Assistant Attorney General for the Environment and Natural Resource Division (1991-92), Deputy Assistant Attorney General (1989-91), and Deputy Assistant to the Attorney General (1989). Barry was responsible for overseeing all US government litigation arising under federal environmental, natural resource, energy, and related laws. He reviewed, approved, and supervised civil and criminal prosecutions arising under federal environmental law, including the *Exxon Valdez* oil spill. Barry was also responsible for directing other litigation, including the defense of regulations issued by federal agencies such as the Environmental Protection Agency and the Department of the Interior, and Endangered Species Act and Fifth Amendment “Takings” matters. He handled the first appeal of a sentence for an environmental crime imposed under the Federal Sentencing Guidelines and represented President George H.W. Bush in opposition to a National Environmental Policy Act (NEPA) challenge to the President's authority to conduct negotiations for the North American Free Trade Agreement.

Barry also served on several senior-level administration policy groups, including the Domestic Policy Council wetlands task force and the Department of Energy Environmental Restoration and Waste Management Program interagency review group. During his service as Deputy Assistant to the Attorney General, Barry was a member of the Attorney General's Judicial Selection Commission. In 1992 he received the Edmund J. Randolph Award for outstanding service.

Barry has testified before Congressional committees regarding the enforcement aspects of legislation, including the Oil Pollution Act. In 2007 he was appointed by the Secretary of the Interior to serve on the department's Natural Resource Damage Assessment and Restoration Federal Advisory Committee.

He also served as Senior Vice President and General Counsel of a manufacturer of zinc and other related materials. In addition, he served in state government, as Chief Counsel to the Pennsylvania Department of Labor and Industry, and Deputy General Counsel to the Governor of Pennsylvania, Dick Thornburgh.

He was the Editor-in-Chief of *The EPA Enforcement Manual* (Thompson Publishing Company) and has published and lectured for numerous organizations, including the National Legal Center for the Public Interest, the Washington Legal Foundation, *Corporate Legal Times*, the *National Law Journal*, the Environmental Law Institute, and the American Bar Association. He has also been interviewed by CBS Evening News, *Frontline*, Fox News, PBS *Nightly Business Report*, and *The Wall Street Journal*. He currently serves on the Editorial Advisory Board for *Environmental Law 360.*

ACHIEVEMENTS

- Recognized by *The Best Lawyers in America*® for Environmental Law in Washington, DC, 2027

PROFESSIONAL / CIVIC ACTIVITIES

- Environmental Law Institute
- Greater Washington Board of Trade
- American Bar Association

SPEAKING ENGAGEMENTS

- Speaker, “Chevron Sleeps with the Fishes: Immigration, Environmental Law, and Much More After Loper Bright,” ABA Section of Civil Rights and Social Justice, 18 July 2024
- Guest Faculty, “Regulation and the Administrative State After *Loper Bright, Corner Post, and Jarkesy,*” ALI CLE, 29 July 2024
- Speaker, “'He/She Who Hesitates May Be Lost' - Ship Implementation Plans: How Good Faith Efforts To Prepare For Compliance This Year Will Impact 2020 Fuel Compliance And Liability Issues In the United States Next Year,” presented at the Connecticut Maritime Association Shipping 2019, April 4, 2019.
- Speaker, “Ethical Issues Involving Parallel Proceedings; “When You Come to a Fork in the Road, Take It,” presented at the 28th Annual Texas Environmental Superconference, August 5, 2016
- Co-speaker, “The New 2015 Sulfur Emissions Limits for Vessels Operating in U.S. Waters,” December 18, 2014, K&L Gates Webinar.
- Speaker, “The Obama Administration's Ability to Use Executive Orders (EOs) to Change Energy, Economic Policy,” presented at GTL North America Conference, June 5, 2014.
- “EPA's Expanded 'Waters of the U.S.' Definition: Navigating the Unprecedented Reach and Scope of New Rule,” presented via webinar on May 28, 2014. *Strafford Publications.*

- Guest Panelist, “EPA, Coast Guard Disagreement on How to Address Industry Obligations to Meet January 1, 2014 Implementation Deadline for New Ballast Water Discharge Limits Poses Considerable Conundrum to Owners and Maybe Worse. What Owners and Operators Need to Know,” The Connecticut Maritime Association's Shipping 2014 Trade Conference, March 18, 2014.
- Co-Presenter, “Ballast Water: The Great EPA/USCG Balancing Act,” Ballast Water Management Summit, Feb. 25-27, 2014.
- Guest Panelist, “Current Issues and Developments in Admiralty Law: An Overview of Changes in Environmental Regulations of Vessels - Emission Control Areas, the Next Vessel General Permit, Ballast Exchange Proposals and Ship Scrapping,” The Connecticut Maritime Association's Shipping 2012 Trade Conference, March 21, 2012.
- Guest Lecturer, “Private Property Rights and Urban Development for Urban Studies Course: Developing the City: Urban Real Estate Market,” University of Pennsylvania, February 16, 2012.
- Guest Speaker, Environmental Law Institute Boot Camp Course on Environmental Law, “Civil and Criminal Environmental Enforcement,” 2002-2011.
- Guest Speaker, ExecSense Webinars, “How to Conduct an Internal Investigation as a COO,” May 16, 2011.
- Guest Panelist, “Legal Session: Environmental Regulation Emerging and Developing Areas Impacting the Maritime Industries,” Connecticut Maritime Association Shipping 2011, March 23, 2011.
- Guest Panelist, “Environmental Regulation Panel: The Deepwater Horizon Oil Spill & Lessons from the Exxon Valdez Oil Spill,” Administrative Law Review Symposium, American University Washington College of Law, January 31, 2011.
- Guest Panelist, “Legal rights of owners/operators when faced with citizen suit and government enforcement actions under U.S. Environmental Laws,” Connecticut Maritime Association's Shipping 2010 Conference, March 23, 2010.
- Guest Lecturer, “Private Property Rights and Urban Redevelopment” for Urban Studies Course, “Developing the City: Urban Real Estate Markets,” University of Pennsylvania, February 17, 2009.
- “Town Hall Meeting on EPA's Newly Proposed Vessel Discharge Rules,” Maritime TV Webcast, July 22, 2008.
- “Vessel Discharge Permits - A New Reality for the Maritime World,” K&L Gates Webinar, June 20, 2008.
- “Managing Environmental Law and Regulation in Shipping,” *Lloyd's Maritime Academy*, London, U.K., April 2008.
- “Chemical Security Anti-Terrorism Standards: Key questions raised by the Department of Homeland Security's New Regulations,” presented at CSHEMA 2007 Annual Conference, July 21-25, 2007.
- “Navigating Audit Disclosure Decisions: 'Your Rights and Obligations,'” presented at CSHEMA-PRIZIM Regional EH&S Seminar, April 16 and 17, 2007.

- "Keys to Kelo: Unlocking the Secrets of Eminent Domain," presented at Brownfields 2006: Recent Developments in the Exercise of Eminent Domain, November 2006.
- "The Rapanos and Carabell Rulings: Consequences for Clean Water Act Enforcement, Regulation, and Compliance," July 18, 2006, via webcast.
- "Criminal Enforcement of Environmental Law," presented at Thirteenth Annual Advanced ALI-ABA Course of Study for the Defense and Government Bars, Washington, D.C., May 18-19, 2006.
- "Government & Internal Corporate Investigations: Responding to Concerns About Alleged Wrongdoing,"presented at The National Association of Corporate Directors, Palo Alto, CA, May 4, 2006.
- "The Legal and Strategic Guide to E-Discovery: Best Practices for Corporate Counsel," *One Size Does Not Fit All: Successfully Managing Specific E-Discovery Practice Areas: Government Investigations*, New York, NY, September 29-30, 2005.
- "Managing Your Homeland Security Issues," presented at IMLA's 68th Annual Conference, October 12-15, 2003.
- "Homeland Security and Current Issues Facing Local Governments," presented at IMLA's 68th Annual Conference, October 12-15, 2003.
- "Environmental Reporting Requirements: How Are They Affected by Sarbanes-Oxley?—Environmental Lawyers' Reporting Obligations Under Sox307, Environmental Laws and Ethical Rules: An Analytical Construct," presented at the *Criminal Enforcement of Environmental Laws*, ALI-ABA Conference, Washington, D.C., May 8, 2003.
- "Prosecution of Environmental Crimes," National Conference of the Academy of Certified Hazardous Materials Managers, Louisville, KY, October 2, 2002.
- "Criminal Enforcement of Environmental Laws," sponsored by the Environmental Law Institute, Newark, NJ, September 18, 2002.
- "Criminal Enforcement of Environmental Law," sponsored by the Environmental Law Institute, Allegheny County Bar Association, and Western Pennsylvania Chapter, American Corporate Counsel Association, Pittsburgh, PA, September 12, 2002.
- "Criminal Enforcement of Environmental Law," sponsored by the Environmental Law Institute and the San Francisco Bay Area Chapter, American Corporate Counsel Association, April 10, 2002.
- "Privileges and Immunities Under Environmental Audit Legislation," American Bar Association, Section of Litigation, Fifth Environmental Enforcement Conference, Washington, D.C., September 7-8, 1995.
- "How Environmental Washington Works," The Environmental Management Development Institute, Washington, D.C., July 12, 1995.
- "New Development and Emerging Trends in Environmental Liability," The Strategic Environmental Accounting and Financial Reporting Conference, Washington, D.C., June 1-2, 1995.

- "New Developments and Emerging Trends in Environmental Liability," Executive Enterprises, Inc., Environmental Accounting Conference, Washington, D.C., October 20-21, 1994.
- "Legal Perspective on Air Quality/Transportation Requirements," The Greater Washington Board of Trade Air Quality Forum, Washington, D.C., June 15, 1994.
- "New Developments and Emerging Trends in Environmental Liability," Paper presented at Executive Enterprises, Inc., Insurance and Environmental Liability, New York, New York, May 12-13, 1994; June 23-24, 1994.
- "Summary of Federal Action Regarding Electric and Magnetic Fields," The EMF Regulation and Litigation Institute, Orlando, FL, April 14-15, 1994.
- "SEC/EPA/DOJ Cooperation and the Financial Reporting of Environmental Liabilities: How In-House Counsel Should Value Risk in Light of New Government Initiatives," Environmental Corporate Counsel Institute, Chicago, Illinois, November 1-2, 1993.
- "The Civil Environmental Litigation Explosion/The Federal Sentencing Guidelines for Environmental Crimes," Pennsylvania Bar Association, Mid-Year Meeting, Washington, D.C., October 30, 1992.
- "Overview of Clean Air Act Enforcement Provisions," speech presented at Operating Permits '92 Seminar, Washington, D.C., September 14-15, 1992.
- "Confidentiality Protection for Environmental Assessment Reports: Protecting Internal Investigations Against Disclosures to Regulators, Prosecutors, or Third Parties: Policy Solutions," Paper presented at American Bar Association, Section of Business Law, San Francisco, California, August 11, 1992.
- "Criminal Liability of Environmental Consultants Under 18 U.S.C. §§ 183 and 4," Institute for Environmental Auditing, Kansas City, Missouri, June 25, 1992.

EDUCATION

- J.D., The George Washington University Law School, 1979
- B.A., University of Pennsylvania, 1976

ADMISSIONS

- Bar of District of Columbia
- Bar of Pennsylvania
- Supreme Court of the United States
- United States Court of Appeals for the District of Columbia Circuit
- United States Court of Appeals for the Second Circuit
- United States Court of Appeals for the Sixth Circuit

- United States Court of Appeals for the Third Circuit
- United States Court of Federal Claims
- United States District Court for the District of Columbia
- United States District Court for the Eastern District of Pennsylvania
- United States District Court for the Eastern District of Washington
- United States District Court for the Middle District of Pennsylvania

THOUGHT LEADERSHIP *POWERED BY HUB*

- 30 April 2025, Trump Administration Dials Up Deregulation
- April 2025, The Trump Administration's Deregulation Initiative: Opportunities for Industry Over the Next 30 Days
- July 2024, Chevron Overruled: Understanding the Supreme Court's Decision in Loper Bright/Relentless and What it Could Mean For Regulated Communities
- 6 May 2024, EPA's New Strategic Civil-Criminal Enforcement Policy: Will Enhanced Coordination Lead to More Criminal Enforcement?
- 5 June 2023, US Supreme Court Issues Landmark Clean Water Act Decision, Significantly Narrowing the Scope of "Waters of the United States" Under Federal Law
- 15 November 2021, In the Weeds: The States Reform Act of 2021, the Latest Comprehensive Cannabis Reform Bill
- 14 September 2021, Congressional and Enforcement Priorities Related to Higher Education Issues
- 2 August 2021, The End of the McGahn Litigation Saga: House Subpoena Power is Vindicated, For Now
- 20 April 2021, Can Companies Find Refuge Against Congressional Investigations in the Post-Trump Era?
- 20 April 2021, Cannabis Banking: The SAFE Banking Act 2.0 Passes the House of Representatives
- 6 April 2021, Cannabis Banking in the U.S. – The Latest on the SAFE Act
- 5 April 2021, EPA Releases New Tool to Analyze Costs of Complying With a State-Proposed No Discharge Zone, But It Carves Out Capital Costs From the Analysis
- 2 April 2021, Cannabis Banking: The SAFE Banking Act 2.0's Status, Key Modifications, and Prospects
- 29 March 2021, COVID-19: Financial Institutions and Loan Recipients Will See Increased Congressional and Inspector General Investigations on CARES Act Funding
- 17 February 2021, COVID-19: Are Your Workplace Safety Compliance Policies Medium-Rare or Well-Done?

- 3 February 2021, Congressional Investigations Preview for the 117th Congress: Unified Democratic Control Means More Robust Oversight and Investigation of the Private Sector
- 3 June 2020, COVID-19: Multiple Investigations of Coronavirus Fund Recipients Underway
- 21 April 2020, COVID-19: Congressional Investigations and Pandemic Relief Oversight Mechanisms
- 31 January 2020, IMO 2020 Is Here: Top 10 Considerations for Foreign Flag Vessels Calling on U.S. Ports and U.S. Flag Vessels Operating Worldwide
- 23 January 2020, Industry Predictions for 2020 From the Maritime Professionals at K&L Gates
- 25 September 2019, In the Weeds: House Moves Toward Opening Banks to Cannabis-Related Legitimate Businesses
- 12 July 2019, Declining to Overrule a Long-Standing Agency Deference Doctrine, the Supreme Court Nonetheless Cautions That its Limitations Provide a Meaningful Check on Federal Agencies' Power to Regulate Business Activities
- 4 April 2019, Ship Implementation Plans Undertaken This Year Will Impact 2020 Fuel Compliance And Regulatory Liability Issues Next Year: Will She Who Hesitates Be Lost?
- 11 February 2019, Congressional Investigations 101: Congressional Investigations Are The Big Time
- 14 January 2019, Trump Administration Begins "Round 4" in the Battle Over Clean Water Act Jurisdiction
- 18 December 2018, The Revised Manual for Federal Prosecutors
- 5 December 2018, 2020 Global Low Sulfur Fuel
- 14 November 2018, Congressional Investigations 101
- 31 August 2018, 20/20 Vision for the 2020 Global Low Sulfur Requirement for the Shipping Industry
- 27 August 2018, Cross-Border Investigations: When Are Documents Developed in the Course of an Internal Investigation Protected By Legal Privilege?
- 9 July 2018, Do You Clearly See What's Coming?
- 29 June 2018, Supreme Court Offers Others a Chance for a Second Bite at the Apple in Federal Administrative Adjudication Proceedings – But the Clock is Ticking
- 1 August 2017, Less Waste, More Recycling - The D.C. Circuit Cleans Up EPA's Definition of Solid Waste
- 1 June 2017, A Not-So-Silver Lining: The Ninth Circuit Vacates EPA's Conditional Approval of a Nanosilver Pesticide Used in Manufacturing "Antimicrobial" Consumer Products
- 3 May 2017, President Trump's Latest Executive Order a Potential Boon for Offshore Energy Development
- 16 March 2017, DOJ's Recent Guidance on Compliance Programs

- 24 February 2017, Continuing to Adjust Penalties: The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015
- 1 February 2017, Climate Change Hits EPA: 30 Pending Regulations Frozen
- 18 November 2016, Upping the Ante: DOJ Prosecuting OSHA Cases as Environmental Crimes
- 2 November 2016, EPA Announces Timeline for VGP 3.0
- 29 August 2016, Changes to Confidential Business Information Disclosure Under the Reformed Toxic Substances Control Act
- 16 August 2016, The FOIA "Five" – After 50 Years, Changes in the Freedom of Information Act That (Might) Matter
- 1 July 2016, Federal Judge: Authority Lacking for Regulation of Hydraulic Fracking
- 27 June 2016, An Air of Change in CERCLA Liability? *Pakootas v. Teck Cominco* and CERCLA's Federal Permit Shield
- 10 May 2016, "Take Me Out to the Ballgame?" Asked the Inspector: Saying "Yes" May Now Be a Federal Crime
- 28 March 2016, How Are Your Construction Activities Regulated under OSHA's Final Silica Rule?
- 14 October 2015, Clean Water Rule Stayed Nationwide
- 14 September 2015, Where You Operate Matters: the Fifth Circuit Widens the Split on MBTA Liability
- 2 September 2015, Eagles Back in the Nest: FWS 30-Year Eagle "Take" Rule Vacated Less than Two Years after Implementation
- 19 June 2015, EPA and the Army Corps Issue Final Clean Water Rule, but Does This New "Line in the Water" Clarify, Expand or Narrow Clean Water Act Jurisdiction?
- 6 May 2015, Bats in the Balance: Northern Long-Eared Bat Listing and Interim 4(d) Rule

OTHER PUBLICATIONS

- "In The Weeds: The States Reform Act of 2021, The Latest Comprehensive Cannabis Reform Bill," *Cannabis Business Executive*, 17 November 2021
- "A Renewed Congressional Focus on Investigating the Energy Industry," *Power*, 15 May 2019
- "Cross-border investigations: When are documents developed in the course of an internal investigation protected by legal privilege?" *Thomson Reuters*, 15 October 2018
- Co-author, "'Raising the Stakes' — A Look at the Environmental Protection Agency's New Vessel General Permit," *The Maritime Executive*, July/August 2016.

- Co-author, “An Air of Change in CERCLA Liability? *Pakootas v. Teck Cominco* and CERCLA's Federal Permit Shield,” *Association of Corporate Counsel of South Carolina Newsletter*, June 2016.
- Co-author, “Navigating CERCLA Settlements in an Age of Uncertainty: Fallout From Ameripride Services,” *Environmental Law Reporter*, September 2015.
- “How Long is the ESA's Arm on LNG Projects?,” *Law360*, April 14, 2015.
- Co-author, “Will U.S. Export-Import Bank Financing of Australian LNG Projects Be Cast Adrift on the “High Seas” by the Endangered Species Act?”, *Environmental, Land and Natural Resources Alert*, April 6, 2015.
- Co-author, “Perez v. MBA Shines A Light On 'Shadow Regulations,'” *Law360*, March 16, 2015.
- Co-author, “EPA and the Army Corps Propose Rules Expanding Clean Water Act Jurisdiction, Potentially Affecting Everyone Who Uses Lands Where Water Might Be Present,” State Bar of Texas, Corporate Counsel Section Fall 2014 Newsletter.
- Co-author, “U.S. Export-Import Bank Financing of Australian LNG Project Avoids Endangered Species Act Challenge – For Now,” *Environmental, Land and Natural Resources Alert*, Aug. 28, 2014.
- Co-author, “In Limbo,” *Great Lakes/Seaway Review*, April-June 2014.
- “Facing Two Strikes, EPA Gets a Hit: Supreme Court Upholds EPA Cross-State Air Pollution Rule,” *Environmental, Land and Natural Resources Alert*, May 1, 2014.
- Co-author, “The Yucca Mountain Nuclear Waste Repository: What's Next?,” *Nuclear Law Committee Newsletter* (Vol. 6, No. 1, April 2014).
- “Federal Appellate Court Stays Initial Date for Meeting New Ballast Water Discharge Limits—But Only for Canadian Shipowners Association Members,” *Environmental, Land and Natural Resources Alert*, April 11, 2014.
- “EPA and the Army Corps Propose Rules Expanding Clean Water Act Jurisdiction, Potentially Affecting Everyone Who Uses Lands Where Water Might Be Present,” *Environmental, Land and Natural Resources Alert*, April 3, 2014.
- Co-author, “Challenge to U.S. Export-Import Bank LNG Financing Raises Questions About Application of US Environmental Law to US Funded Projects in Other Countries,” *Global Government Solutions® 2014 Annual Outlook*, K&L Gates Publication, February 2014.
- “Going Ballistic Over Ballast Water Regulations,” Environmental Law360, Public Policy Law360 Articles, January 23, 2014.
- “EPA and Coast Guard Disagree on How to Address Industry Obligations to Meet January 1, 2014 Implementation Deadline For New Ballast Water Discharge Limits,” *Environmental, Land and Natural Resources Alert*, January 6, 2014.

- "U.S. Court of Appeals Orders the Nuclear Regulatory Commission to Resume Yucca Mountain Licensing Proceeding, Upholding Rule of Law Over Politics," *Environmental, Land and Natural Resources Alert*, August 15, 2013.
- Co-author, "The New 2013 Eagle Conservation Plan Guidance: Certainty for the Industry or Dust in the Wind?," *Energy Alert*; May 30, 2013.
- *Environmental Policy Quarterly*, K&L Gates Publication, Spring 2013.
- "EPA Issues 2013 Vessel General Permit," *Environmental, Land and Natural Resources Alert*, April 2, 2013.
- Co-author, "EPA Proposes Revisions to the Renewable Fuel Program to Prevent Fraud and Protect Innocent Traders in Renewable Identification Numbers ("RINs"); Allows Limited Use of Program Immediately," *Environmental, Land and Natural Resources and Global Government Solutions; Public Policy and Law Alert*, February 25, 2013.
- *Global Government Solutions® 2013: Annual Outlook, K&L Gates Publication*.
- Contributor, "The Year in Review 2012," *ABA Section on the Environment, Energy, and Resources*, 2012
- Co-author, "Homer City—Has the D.C. Circuit Signaled an Alternate Approach to Judicial Review of Agency Regulations?," *Environmental, Land and Natural Resources and Appellate, Constitutional and Government Litigation Alert*, October 11, 2012.
- Co-author, "D.C. Circuit Calls Strike Two on EPA's Cross-State Air Pollution Rule," *Environmental, Land and Natural Resources Alert*, August 24, 2012.
- Co-author, "Two Federal Decisions Signal Further Expansion of Criminal Liability for Environmental Crimes," *Environmental, Land and Natural Resources Alert*. July 25, 2012.
- Co-author, "Sixth Amendment Requirement That Juries Find Facts Necessary to Impose Fines Above Statutory Maximum Raises New Questions for Environmental Prosecutions," *Environmental, Land and Natural Resources and Government Enforcement Alert*, July 25, 2012.
- Co-author, "European Union May Adopt More Stringent Sulfur Content Limits for Marine Fuels," *Maritime Alert*, June 13, 2012.
- Co-author, "Supreme Court Rules that U.S. EPA Unilateral Compliance Orders Under the Clean Water Act Are Final Actions Judicially Reviewable," *EPA Compliance Alert*, March 22, 2012.
- Co-author, "EPA Issues Draft of the Next Vessel General Permit for Public Review—Comments Due By February 21, 2012," *Maritime, Environmental, Land and Natural Resources Alert,* December 9, 2011.
- Co-author, "New Criminal Charges Under Migratory Bird Treaty Act Create More Complexity for Energy Companies," *Energy and Utilities/Environmental, Land and Natural Resources Alert*, September 8, 2011.
- Co-author, "What's a Waste: EPA's Proposed Redefinition and Its Impact on Recycling," *Environmental, Land and Natural Resources Alert*, August 2, 2011.

- Co-author, “Can Government Contractors Certify That Their Goods and Services “Exist in Productive Harmony” with Nature? New Rule for Federal Green Contracting,” *Government Contracts/Environmental, Land and Natural Resources/Construction Alert*, June 21, 2011.
- Co-author, “Post-Gulf Spill Legislation Proposed to Enhance Penalties for Clean Water Act Violations,” *Public Policy and Law Alert*, June 21, 2011.
- Co-author, “Spillover from the Spill,” *Maritime Alert*, August 18, 2010.
- Co-author, “Maritime Industry Faced with New Proposals for Regulating Air and Water Discharges as a Result of Environmental Group Action; Comment Opportunities Limited,” *Maritime and Environmental, Land and Natural Resources Alert*. July 28, 2010.
- Co-author, “What Do the Decisions in *U.S. v. Skilling* and *U.S. v. Black* Really Mean for Corruption Prosecutions?,” *Government Enforcement: White Collar Crime/Criminal Defense Alert*, July 23, 2010.
- Co-author, “International Maritime Organization (“IMO”) Approves Authority for U.S. to Impose Stringent New Air Emission Standards for Large Oceangoing Vessels,” *Maritime Alert,* April 6, 2010.
- Co-author, “EPA Issues Preliminary Study on Vessel Discharges for Fishing Industry and Smaller Cargo Vessels,” *Maritime Alert*, March 30, 2010.
- Co-author, “The Brady Bunch of Cases and Their Extended Family: Recent Prosecutorial Misconduct Cases in Federal Court, the Department of Justice Response, and Observations on Defense Strategies,” *Government Enforcement Alert*, January 12, 2010.
- Co-author, “The Winds of Change Continue to Blow: Coast Guard Proposes New Ballast Water Discharge Limitations,” *Maritime and Environmental, Land and Natural Resources Alert*, September 9, 2009.
- Co-author, “The Perfect Storm Continues: Proposed Ballast Water and Air Emissions Regulations Present More New Challenges for the Maritime Industry; Opportunity to Comment Is Limited,” *Maritime and Environmental, Land and Natural Resources Alert*, August 28, 2009.
- Co-author, “Reminder: Vessel Owners and Operators Face a September 19, 2009 Deadline for New Filing Requirements under Federal Clean Water Act,” *Maritime and Environmental, Land and Natural Resources Alert*, August 27, 2009.
- Co-author, “A Chance to Get It Right: Federal Clean Water Act Requirements,” *The Maritime Executive Magazine*, July 9, 2009.
- Co-author, “Déjà Vu All Over Again: Environmentalists Petition for Unprecedented Expansion of Requirements for Vessel Sewage Discharges,” *Maritime and Environmental Alert*, May 11, 2009.
- Co-author, “Winds Change for the Maritime Industry with New Climate Change Legislation,” *Maritime and Environmental Alert*, April 20, 2009.
- “What to Expect in Environmental Enforcement in the Obama Administration,” Shipping 2009, March 25, 2009.

- Co-author, EPA Issues Final Clean Water Act Permit for Incidental Discharges From Vessels, *Maritime and Environmental Alert*, January 9, 2009.
- Co-author, “Time and Place Are Everything: When an 'Honest Day's Work' Becomes 'Honest Services Fraud,'” *WCC Bulletin,* Newsletter of the ABA Criminal Justice Section's White Collar Crime Committee, August 2008.
- Co-author, “California Air Resources Board Issues Draft Clean-Fuel Regulations for Oceangoing Vessels,” *Maritime Alert*, June 17, 2008.
- “Twenty Questions You Cannot Be Afraid to Ask about Government Agencies that Investigate 'White Collar' Cases,” *Working with Government Agencies in White Collar Law*, Thomson Reuters/Aspatore, 2008.
- Co-author, “Ninth Circuit Holds that California's 'Marine Vessel Rules' Are Preempted by Federal Clean Air Act,” *Environmental, Land Use and Natural Resources Alert*,March 6, 2008.
- Co-author, “Homeland Security Issues New Regulations Requiring Inventories, Assessments and Security Programs at Chemical Facilities,” *Environmental, Land Use and Natural Resources, and Homeland Security Alert*, November 6, 2007.
- Co-author, “The Perfect Storm: Ballast Water Discharges Face Potential New Regulatory, Legislative and Judicial Rules,” *Maritime Alert*,September 5, 2007.
- Co-author, “U.S. Supreme Court Vacates Fourth Circuit's *Duke Energy* Decision,” *Environmental Alert*, April 2007.
- Co-author, “Nanotechnology: An Update on Business Opportunities and Regulatory Challenges,” *Journal of Biolaw and Business*, Vol. 10, No. 1, 2007.
- Co-author, “Homeland Security to Regulate Chemical Facilities,” *Facilities Manager*, January/February 2007.
- Co-author, “Nanomedicines in Europe: An Opportunity for Investment,” *Nanotechnology Alert*, February 2007.
- Co-author, “Nanotechnology—Business Opportunities & Regulatory Challenges,” Metropolitan Corporate Counsel, December 2006.
- Co-author, “Legal Framework for Bioremediation,” Chapter 3 in the American Society for Microbiology's *Applied Microbial Solutions for Real-World Environmental Cleanup*, April 2005.
- Co-author, “Guidelines Are Just Guidelines: The Impact on Corporations of the Supreme Court's Decision on The United States Sentencing Guidelines,” *White Collar/Criminal Defense Alert*, January 2005.
- Co-author, “Lawsuit Challenges Field Testing of Genetically Modified Plants,” *Life Science FOCUS*, March 2004.
- “U.S. Environmental Protection Agency Refocuses on Environmental Crimes,” *Environmental Alert*, February 2004.

- "With Tighter Homeland Security Measures, Users of Biological Agents Must Meet Substantial New Regulatory Obligations—Applications for Clearance Due November 12, 2003," *Homeland Security Bulletin*, December 2003.
- "EPA Environmental Justice 'Toolkit' Presents a New Challenge for Businesses Seeking to Relocate or Expand," *Environmental Alert*, December 2003.
- "Homeland Security Spurs New Regulatory Requirements for Over 5000 Businesses with Facilities Near Ports, Rivers, Lakes, Streams and Wetlands," *Homeland Security Bulletin*, September 2003.
- "*Tennessee Valley Authority v. Whitman*: Is EPA's Preferred Environmental Enforcement Weapon—the Compliance Order—Unconstitutional?," *Environmental Alert*, July 2003.
- "Senate Considers Competing Bills to Address Security at Chemical Manufacturing and Processing Facilities," *Homeland Security Bulletin*, July 2003.
- Co-author, "EPA Enforcement Orders Found Lacking in Due Process Protection," *Legal Backgrounder*, July 25, 2003.
- Co-author, "U.S. Departments of Homeland Security and Transportation Issue New Rules Requiring Background Records Checks Prior to Licensing Operators of Vehicles That Transport Hazardous Materials in Commerce," *Homeland Security Bulletin*, June 2003.
- Co-author, "Homeland Security Expands to Regulation of the Manufacture, Use, Transportation and Disposal of Hazardous Substances and Materials, Including Chemical and Biological Agents," *Homeland Security Bulletin*, April 2003.
- "Pursuing Environmental Crimes: The Role of the Department of Justice," Washington Legal Foundation, May 14, 2002.
- "Comments Due on Possible Revisions to Corporate Sentencing Guidelines," *Counsel's Advisory*, Washington Legal Foundation, Vol. 10, No. 2, May 10, 2002.
- Co-author, "MACT Hammer Poised to Strike," *Environmental Alert*, April 2002.
- "Federal Enforcement of Environmental Laws After September 11," *Environmental Alert*, December 2001.
- "Challenging Agency Rulemaking in the Appellate Courts," Kirkpatrick & Lockhart LLP Appellate Briefs, February 1998, Vol. 2, No. 2.
- "Outlook for the Legal Profession in 1996," *The Greater Washington Board of Trade News, Business Outlook*, Vol. 50, No. 7.
- "State Road Projects Vital to Economic Growth: Another Victim of the Clean Air Act?" Washington Legal Foundation, *Legal Opinion Letter*, Vol. 5, No. 7, March 17, 1995.
- "Beware Environmental Defendants: Failure to Understand Title 18 Can Get You 20," Washington Legal Foundation, *Legal Backgrounder*, Vol. 9, No. 22, July 1, 1994.

- "The Coastal Zone Management Act: Unexpected Impacts on Environmental Permitting," *Journal of Environmental Auditing*, Vol. 3, No. 3, Summer 1994.
- Co-author, "A Primer on Environmental Auditing," The National Legal Center, White Paper, Vol. 6, No. 2, July 1994.
- "Louisiana-Pacific Case Chinks Armor of Corporate Officer Liability," *Inside Environment*, July 1993.
- "Federal Environmental Law Affecting Investments," *Professional's Guide to Investment in the USA*, April 1993.
- "The Effect of the Clean Air Act Amendments Upon Local Businesses," *Kirkpatrick & Lockhart Business Law Update*, Spring 1993.
- "Transferring 20 Years of NPDES Experience to the New Clear Air Permits: The 'Takings' Issue," *Environmental Permitting*, Summer 1993.
- Co-author, "The Present Use of the Responsible Corporate Officer Doctrine in the Criminal Enforcement of Environmental Laws," *Environmental Law Reporter, News & Analysis*, Vol. XXIII, No. 3, March 1993.
- Co-author, "Debarment, Suspension, Contractor Listing, and Permit Blocks," chapter in *EPA Enforcement Manual*, 1993.
- "Potential Criminal Liability of Environmental Auditors for Concealing Environmental Violations Committed by Others," *Working Papers*, Institute of Environmental Auditing, Vol. VI, No. 5, January 1993.
- "*Lucas v. South Carolina Coastal Council*: The Takings Test Turns a Corner," *Environmental Law Reporter, News & Analysis*, Vol. XXIII, No. 1, January 1993.
- "How Environmental Compliance Programs May Miss Their Mark," *National Law Journal*, Corporate Counsel Section, December 14, 1992.

NEWS & EVENTS

- 29 July 2024, Regulation and the Administrative State After Loper Bright, Corner Post, and Jarkesy, Hosted by ALI-CLE
- 18 July 2024, Chevron Sleeps with the Fishes: Immigration, Environmental Law, and Much More After Loper Bright, Hosted by American Bar Association
- 10 July 2024, Media Cover K&L Gates' Response to US Supreme Court's Chevron Decision
- 21 June 2024, K&L Gates Files Application With FAA on Behalf of Pyro Spectaculars by Souza to Allow Pyrotechnics on Drones
- 3 May 2022, Interstate Commerce: The Present Landscape and the Complex Road Ahead, Hosted by Cannalaw Summit

- 9 April 2019, K&L Gates Boosts Public Policy and Investigation and Enforcement Practices in Washington, D.C., with Former Obama, Clinton White House Counsel Addition

OTHER MEDIA MENTIONS

- Quoted, “Supreme Court Ruling Ripples Already Roiling Industry,” *Contractor Magazine, HPAC Engineering*, 12 August 2024
- Quoted, “Supreme Court ruling on Chevron could have broader implications for water industry,” *Tech Trends Post*, 11 August 2024
- Quoted, “Supreme Court Ruling on Chevron Decision Likely to Further Impact Water Industry,” *Contractor Magazine*, 6 August 2024
- Quoted, “Will recent Supreme Court rulings 'devastate the functioning of the federal government?',” *Government Executive*, 1 July 2024

AREAS OF FOCUS

- Public Policy and Law
- Administrative and Regulatory Law
- Appellate Litigation
- Environment and Energy
- Internal Investigations
- Maritime Compliance
- Maritime Regulatory
- US Congressional Investigations
- White Collar Defense and Investigations

INDUSTRIES

- Energy
- Maritime
- Transportation and Logistics

REPRESENTATIVE EXPERIENCE

- *In Re Orphan Drug Designation*. Represented manufacturer in challenge to FDA denial of orphan drug designation; denial reversed.
- *In Re Grand Jury Investigation* (Florida). Represented publicly traded company in grand jury investigation arising from allegations of improper disposal of hazardous waste; prosecution declined.
- *Rhode Island Lobstermen's Association adv. Ekloff Marine, (D. R.I.)*. Represented owner of oil in criminal investigation arising from 1996 oil spill; owner not implicated. Also, represented the seafood and fishing industry in connection with claims for damages sought pursuant to the Oil Pollution Act, as a result of damages caused by the 1996 North Cape oil spill.
- *In Re Great Meadows National Wildlife Refuge*. Representing adjacent landowner in connection with challenged to decision by wildlife refuge to construct boardwalk on Refuge without first complying with NEP and Refuge Act requirements.
- *In Re Criminal Investigation* (National). Represented photo processing manufacturer in multifacility, national environmental criminal investigation relating to voluntary disclosure by company.
- Advised a large oil pipeline company regarding a criminal investigation and parallel civil investigation and enforcement arising under the Clean Water Act relating to alleged oil spills.
- Represent company in connection with multiple congressional and DOJ investigations.
- Represent a senior foreign-service officer in a deposition and public testimony in the House impeachment proceedings.
- Represented a major energy company in a congressional investigation related to Middle Eastern energy market access in a highly regulated industry.
- *Southwestern Pennsylvania Growth Alliance v. Browner*, 144 F.3d 984 (6th Cir.), 121 F.3d 106 (3rd Cir.). Challenged actions by the United States Environmental Protection Agency that denied a request for redesignation of an attainment area under the 1990 Clean Air Act, based on violations of the Clean Air Act and the Small Business Regulatory Enforcement and Fairness Act.
- Outside Ethics Counsel to the Chesapeake Regional Coalition 2012 seeking to bring the 2012 Olympics to the Washington/Baltimore Region. Developed Ethics Structure for submission of the Washington, DC 2012 Bid City Proposal.
- *Blandford v. United States*, 540 U.S. 1177 (*cert. denied*, February 23, 2004). Represented individual in Petition for Certiorari, seeking review of an Eleventh Circuit decision affirming the conviction of four individuals for violations of the Lacey Act raising issues of the interaction between U.S. and foreign law.
- General Counsel to Council on Endangered Species Act Reliability.

- Prepared comments on behalf of several companies to the United States Sentencing Commission Advisory Committee regarding its proposal for sentencing guidelines applicable to corporations convicted of environmental offenses.
- *United States v. Olin Corporation*, 107 F.3d 1506. *Amicus curiae* on behalf of seventeen members of Congress and the Washington Legal Foundation, addressing whether the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) is retroactive and is applied consistent with Congress' Commerce clause authority.
- *The Steel Company v. Citizens for a Better Environment*, 523 U.S. 831. *Amicus curiae* brief on behalf of the Washington Legal Foundation, in support of Petitioner, that the Emergency Protection and Community Right to Know Act does not authorize citizen suits for wholly past violations of that law.
- *City of Alexandria v. Slater*, 198 F.3d 862 (D.C. Cir. 1999). *Amicus curiae* in successfully defending the Federal Highway Administration's decision to approve a new major bridge construction project near Washington, DC against challenges brought under the National Environmental Policy Act, the Transportation Act and the National Historic Preservation Act.
- Represented manufacturer of FIFRA-regulated substances in connection with challenge to EPA activities with respect to the use of certain data when evaluating the risks associated with certain pesticides during the re-registration process. Advised several public companies with respect to disclosure of potential environmental liabilities in connection with SEC filings.
- *Save Our County et al v. Defense Logistics Agency, et.al* No. 4-20-cv-01267 (SBA) Representing co-defendant government contractor in APA Challenge to NEPA analysis in connection with incineration contracts (one client dismissed; case still pending).
- *United States v. John Cota* (No. CR-08-0160) (N.D. Ca.). Represented pilot of Cosco Busan in criminal proceeding arising from Cosco Busan spill in San Francisco Bay.
- General Counsel to American Pyrotechnics Association.
- Represent a senior energy executive in a federal grand jury investigation in Puerto Rico.
- *Medusa Corporation v. United States Environmental Protection Agency* (D.C. Cir.). Represented company in Petition for Review of Boiler and Industrial Furnace Rulemaking under the Resource Conservation and Recovery Act. Matter settled.
- *In Re Grand Jury Investigation* (Pennsylvania). Represented large steel manufacturer in grand jury investigation (along with parallel civil enforcement proceeding) arising from alleged pattern of NPDES violations at several facilities in two states; prosecution declined.
- *In Re Criminal Investigation* (Texas). Represented diversified manufacturer in connection with criminal investigation arising from disposal of used oil from various facilities.
- *Allegheny Regional Health System v. Veritus Medicare Services,* (PRRB Case No. 05-1976). Challenge to interpretive rule of the CMS as an invalidly promulgated regulation. (Challenge upheld by Provider Reimbursement Review Board).

- *Southwestern Pennsylvania Growth Alliance v. Browner*, 144 F.3d 984 (6th Cir.), 121 F.3d 106 (3rd Cir.). Challenged actions by the United States Environmental Protection Agency that denied a request for redesignation of an attainment area under the 1990 Clean Air Act, based on violations of the Clean Air Act and the Small Business Regulatory Enforcement and Fairness Act.
- *Sierra Club v. EPA*, No. 00-2206 (CKK/JMF) (D.D.C.). Represented a partnership of public officials and private business leaders opposing a lawsuit filed by environmental groups challenging the EPA's redesignation of the Pittsburgh, Pennsylvania area to attainment status.
- *Kleissler v. United States Forest Service*, 183 F.3d 196 (3d Cir.). Represented a coalition of businesses, schools and others in defending against efforts to enjoin implementation of the Forest Management Plan for the Allegheny National Forest; obtained intervenor status for its clients; and was able to have all claims dismissed, either by the District Court or on appeal at the Third Circuit.
- Advised several clients with respect to Superfund reform issues.
- *New Jersey v. Long Island Power Authority*, 30 F.3d 403 (3rd Cir.). Challenge to plan for shipment of fuel to Pennsylvania utility brought under the National Environmental Policy Act, the Coastal Zone Management Act, and the Atomic Energy Act.
- *United States v. Borden Chemicals & Plastics Operating Limited Partnership*, Civil Action No. 94-440-1-2 (M.D. La.). Led negotiations on behalf of a specialty chemicals manufacturer in multimedia enforcement action alleging violations of the Clean Air Act, the Employee Protection and Community Right to Know Act ("EPCRA"), and seeking site-wide RCRA corrective action. Government sought $15 million plus disgorgement of profits; case resolved for $3,500,000 in penalty plus Supplemental Environmental Projects and unprecedented dispute resolution procedures.
- Advised a variety of clients with respect to the environmental aspects of transactions, including a publicly held limited partnership selling 80 fast food restaurants nationwide; a national company in connection with potential acquisition of wastewater facility; an estate selling former landfill site; and a limited partnership selling interest in an industrial facility.
- *In Re Grand Jury Investigation* (New Jersey; Louisiana). Represented publicly traded specialty chemical manufacturer in federal grand jury investigation (and parallel civil enforcement proceeding) arising from the alleged improper storage, labeling, handling, and exportation of hazardous materials and hazardous wastes. Prosecution declined.
- Developing corporate compliance programs (environmental and otherwise) for biotechnology, manufacturing, utility and natural resource companies and related presentations to senior corporate management.
- *United States v. Horsehead Industries, Inc.*, No. 3: CV-98-0654 (M.D. Pa.); *Viacom International Inc. v. Admiral Insurance Co.*, No. SOM–L–1739-99 (Somerset County, NJ); *Paramount Communications Inc. v. Horsehead Industries, Inc.*, No. 125931/93 (Supreme Court, New York County); *Horsehead Industries, Inc. v. Paramount Communications Inc.*, 258 F.3d 132 (3d Cir.). Lead counsel on multiple litigations relating to claims for remediation costs at CERCLA sites, including claims for indemnification under Asset Purchase Agreement; cost recovery claims under CERCLA; contribution claims under CERCLA; and claims for

coverage under insurance policies; successfully obtained preliminary injunction against the United States to preclude enforcement of Unilateral Administrative Order.

- *In Re Special Investigation* (Tennessee). Retained by Audit Committee of Board of Directors to investigate potential environmental compliance and related record keeping issues.
- *Zinc Corporation of America v. EPA*, No. 97-1734 (D.C. Cir.). Challenged regulations implementing Phase II of Title IV of the Clean Air Act of 1990 relating to sulfur dioxide emissions from certain industrial sources. Successfully resolved litigation when EPA agreed to withdraw the final rule and repromulgate regulations, effectively exempting client from program.
- *American Trucking Ass'n v. Browner*, 175 F.3d 1027 (D.C. Cir.)., reh'g granted in part and denied in part, 195 F.3d 4 (D.C. Cir. 1999), aff'd in part and rev'd in part, *sub. nom. Whitman v. Am. Trucking Ass'ns*, 531 U.S. 457 (2001). Represented the Small Business Survival Committee, the Native American Business Association and Judy's Bakery in this successful challenge to certain National Ambient Air Quality Standards promulgated under the federal Clean Air Act regulations.
- *Mortgage Bankers Association*. Represented mortgage banking clients in connection with evaluation of whether certain Katrina-related relief programs funded under special appropriations complied with the National Environmental Policy Act and related environmental analysis obligations contained in regulations of t he Department of Housing and Urban Development.
- *In Re Grand Jury Investigation* (Louisiana). Representing environmental compliance official of fertilizer manufacturer in connection with Clean Air Act, related criminal investigation and grand jury proceeding.
- Advised international glass manufacturer regarding requirements of the state law toxics in packaging statutes, and related enforcement issues arising under Barriers to Trade Act.
- *Consortium of Independent Review Boards adv. Department of Health and Human Services*. Challenge to final HHS action relating to Federal Advisory Committee Act. (Agency altered position making suit unnecessary).
- Represented Independent Review Board in connection with congressional investigation into the anti-biotic, Ketek.
- *In the Matter of Apothecus Pharmaceutical Corporation*, EPA Docket No. CWA 02-2004-3301. Represented manufacturer in connection with enforcement action relating to discharge in public owned treatment work.
- *City of Santa Fe, New Mexico*. Advising the City of Santa Fe with respect to issues arising under the National Environmental Policy Act, the Endangered Species Act, and the Federal Land Policy and Management Act in connection with applications to construct and operate a surface water diversion project on the Rio Grande River in the Santa Fe National Forest.
- *In Re Grand Jury Investigation* (South Carolina). Represented biotechnical company in connection with grand jury investigation of possible crimes involving weapons of mass destruction.
- *American Council on Education*. Represented association of higher education institutions regarding environmental compliance issues.

- *In Re: United States Gen. New England, Inc. Brayton Point Station*, Appeal No: NPDES 03-12 (Environmental Appeals Board, No. 03-12). Advisory counsel regarding appeal of state and federal decisions governing permit conditions that imposed extensive compliance and monitoring obligations. Represented energy company in connection with issues relating to permits and other authorizations and approvals issued by Bureau of Land Management, Corps of Engineers, Forest Service, and Bureau of Reclamation under various federal laws.
- *Croplife America, et al. v. EPA*, (No. 02-1057) (D.C. Cir.). Challenged validity of agency policy governing use of human data as an invalidly promulgated regulation. (Policy vacated.)
- *Florida Department of Environmental Protection in Southeastern Federal Power Customers Inc. v. Corps of Engineers, et al.*, 301 F. Supp. 2d 26 (D.D.C. 2004), *reversed*, 514 F.3d 1316 (D.C. Cir. Feb 05, 2008). Counsel to Florida DEP in dispute over water rights allocation issues relating to the Apalachicola-Chattahoochee-Flint River ("ACF") Compact, as well as issues under the National Environmental Policy Act, the Endangered Species Act, the Water Supply Act and the Flood Control Act.
- *In Re Doctors Research Group*, FIFRA 01-2003-00 (2003). Counsel to medical device manufacturer in enforcement action alleging that FDA-approved antimicrobial medical device is required to be registered as a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act.
- *In Re Grand Jury Investigation* (Missouri). Represented company and officers engaged in asbestos monitoring and testing activities under government contract; investigation involved allegations of falsified documents under the Clean Air Act by subcontractor; after company and individuals were named as targets, prosecution was declined.
- *United States v. Mark David Radley (No. 09-20699)* (5th Cir.). Representing individual in defending government appeal following dismissal of indictment for alleging conspiracy, wire fraud, manipulation and attempted manipulation under the Commodity Futures Trading Act and Title 18; (Indictment dismissed; dismissal affirmed on appeal, Jan. 27, 2010.)
- *Friends of the Earth v. Gaston Copper Recycling Corporation*, No. 3:92-2574 (D. S.C.). Representing company in connection with decision by United States to intervene for purposes of enforcement civil penalty judgment arising from citizen suit brought under Resource Conservation and Recovery Act.
- *Southeast Land Develop. Assoc. L.P. v. D.C.*, 2005-cv-01413, 2005 WL 3211458 (D.D.C. Nov. 1, 2005). Challenged Mayor's action in taking private property for a professional baseball park as an authorized public purpose for which the power of eminent domain could be exercised.
- *Southeast Land Develop. Assoc. L.P. v. D.C.*, 2005-cv-01413, 2005 WL 3211458 (D.D.C. Nov. 1, 2005). Whether the Mayor's action in taking private property for a professional baseball park constituted an authorized public purpose for which the power of eminent domain could be exercised when enabling legislation contained preconditions for the exercise of that authority and such preconditions had not been met.
- *In Grand Jury Investigation* (California). Advised owner and CEO of closely held company engaged in metal finishing operation regarding criminal investigation, indictment and sentencing issues arising under Clean Water Act and RCRA.

- Represented former Deputy Secretary of Interior in public corruption investigation.
- *In Re Grand Jury Investigation* (Missouri). Represented two former senior managers of dairy operation in connection with investigation into alleged manipulation of Class III milk market in violation of Commodities Exchange Act. Prosecution declined.
- *National Wildlife Federation adv. Fednav et al.* (2009) Represented Canadian shipping company served with notice of citizen suit under the Clean Water Act for failure to have an NPDES permit for the discharge of ballast water in the Great Lakes. After a number of meetings with the group and the US Department of Justice, the group was persuaded to withdraw the notice prior to filing a formal complaint.
- *Village of Barrington, et al v. Surface Transportation Board* (No. 09-1073) (D.C. Cir). Representing Village of Barrington in NEPA challenge to decision of Surface Transportation Board to permit transaction resulting in significant rerouting of rail traffic from the City of Chicago to its perimeter.
- *United States v. Saturn Chemicals, Inc., Polysat, Inc., and Darryl Manuel*, No. 08-cv-03537-AET-TJB (D. N.J.). Represented defendants in CERCLA cost recovery action. As a result of assertions and third party defenses, discovery of questionable governmental conduct, and actions to include third parties, following pre trial mediation the matter settled with the clients paying approximately 1./3 of the original claim.
- *Canal Barge Co., Inc. v. United States*, No. 10-1410 (S.Ct.) Filed *amicus curiae* brief in support of petition for certiorari on the issue of whether venue provision in Article III can be determined based on the location of a vessel, regardless of where the conduct giving rise to the criminal charges occurred.
- *In Re Special Investigation* (Alaska). Retained by Board of Directors of Alaska Native Corporation to investigation certain business practices of executives of subsidiary relating to general operations and compliance with small business regulations.
- *In Re Grand Jury Investigation* (Washington, DC). Represented former agency employee in connection with investigation into alleged violations of post employment restrictions. Matter resolved administratively.
- *In re Aiken County, Ferguson, et al. v. Barack Obama, et al.*, 645 F.3d 428 (D.C. Cir. 2011). Representing businessmen challenging decision by President to abandon development of Yucca Mountain as a permanent repository for high level nuclear waste, in violation of the Nuclear Waste Policy Act, National Environmental Policy Act, and Administrative Procedures Act. Slip Op., July 1, 2011.
- Provided background analysis and briefing to multiple investment companies, hedge funds and similar organizations regarding Gulf oil spill.
- *United States v. Adams Brothers Farming Inc.*, No. 00-74409 (C.D. Ca). Represented farm and executives in Clean Water Act enforcement action alleging that operation of farm constituted unlawful filling of waters of the United States without a section 404 permit. Case settled; farm continues in operation. In Re Criminal Investigation (California). Represented individual and small farming entity in investigation alleged violations of Clean Water Act and Endangered Species Act in California. Prosecution declined.

- *United States v. Frank* (E.D.N.Y.). Co-counsel for individual owners of oil recycling and sludge disposal company; six-week trial involving counts under the Toxic Substance Control Act (PCB labeling, storage and disposal) and Title 18 (conspiracy to defraud an agency of the United States). Clients acquitted of all charges.
- Represented trustee in investigation by Senate Permanent Investigations Subcommittee of offshore investment devices.

Congressional Investigations

NEPA, Endangered Species and Natural Resources

Grand Jury and Criminal Trial Experience

Supreme Court and Other Appellate-level Litigation

Internal Investigations

Non-litigation Matters

Eminent Domain and Fifth Amendment Takings

Civil Trial and Enforcement Litigation

Challenges to Agency Action (Non-enforcement)

Maritime Industry

Pharmaceutical/Healthcare Industry

Energy & Commodities Industry

Manufacturing Industry (Chemical, Steel, Recycling)