



J. Michael Showalter

PARTNER

Mike is a problem-solver whose practice focuses primarily on resolving high-stakes environmental and public policy disputes that are legally novel or technically complex.



Industries

[Energy & Cleantech](#)
[Real Estate](#)

Practices

[Environmental](#)

Education

Vanderbilt University Law School, JD, 2004
Columbia College, Columbia University, AB, 2000

Offices

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[New York](#)

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Mike practices out of ArentFox Schiff's New York office at 1185 Avenue of the Americas.

Mike is a litigator focusing on business and public policy disputes. He is well-versed in decades-old statutes and regulations that govern rapidly evolving issues such as fracking, superfund remediation, and carbon capture sequestration. Mike has extensive experience leading litigation teams in cases involving routine business disputes to bet-the-company disputes spanning multiple courts.

While much of his recent work involves disputes arising under environmental statutes including CERCLA, RCRA, the Clean Air Act, and the Clean Water Act, Mike has represented parties involved in commercial, class action, toxic tort, and regulatory litigation in courts throughout the United States. His past clients span individuals; municipalities; trade associations; non-governmental organizations; and businesses engaged in industries including manufacturing, power generation and transmission, and the financial and insurance sectors. Mike has worked with hundreds of experts in fields ranging from history and economics to environmental engineering and risk assessment. He has resolved claims where no complaint has ever been filed, clear through managing issues related to the implementation of decades-old consent decrees.

Mike's beginnings in a West Virginia steel town provide him with a unique perspective when litigating headline-grabbing cases involving large industrial sites. Not only does he understand the details of each case, he can distill complicated facts into compelling arguments that carry weight with both courts and the broader communities where his clients live and operate. He works with individuals and organizations to manage legal and reputational risks associated with their operations.

Previous Work

Before entering private practice, Mike was a law clerk for then U.S. Magistrate Judge (now Chief District Judge) Michael F. Urbanski of the Western District of Virginia, and Chief District Judge David A. Faber of the Southern District of West Virginia.

Client Work

- Mike defends parties against "citizen suits" brought by private parties and non-governmental organizations alleging that their activities have violated federal or state law. Successes include securing the dismissal with prejudice – upheld by the Ninth Circuit – of a case alleging that a West Coast utility's use of hundreds of thousands of telephone poles was illegal, and securing the dismissal of air-related claims at the federal and state level against a Midwestern utility.
- Mike has successfully brought multiple claims challenging the constitutionality of state laws for individuals and organizations and has filed amicus briefs related to government policies or conduct in various appellate courts.
- Mike has advised various parties in regard to how the COVID-19 pandemic affects existing legal and administrative obligations.
- In a high-profile case, Mike secured a summary judgment win for a natural gas company alleged to have contaminated groundwater through fracking. After the conclusion of expert discovery, the Court dismissed the claims, finding that Plaintiffs had failed to produce any evidence linking their damages to Mike's client.
- Mike has extensive experience working on Superfund-related matters throughout the United States through both litigation and negotiation. Mike is part of the team representing National Grid at the Gowanus Canal Superfund Site in New York City. National Grid is one of 28 parties that has been directed to investigate, characterize, and address contamination in a complex urban environment. In addition to this Site, Mike has assisted clients in resolving intractable disputes at various other high-profile sites through federal and state litigation and mediation.
- In a recent matter, Mike filed litigation to secure access necessary for a client to remediate a site listed on the federal NPL and subsequently secured summary judgment against an \$11 million counterclaim based on a never-before-litigated state law provision allowing compensation paid by a remediating party to a current site owner. The court's decision relied on Mike's team's factual and legal analysis in awarding less than 1 percent of the amount claimed in compensation. The court's decision was affirmed on appeal by the Sixth Circuit.
- Mike has advised public and private water utilities regarding compliance issues with the federal Lead and Copper Rule.
- Mike has extensive experience in representing parties in toxic tort and property damage litigation, including claims related to injuries related to asbestos, silica, benzene, VOCs, PCBs, and other chemicals.
- Mike provides legal advice on pending federal legislation and rulemakings and has represented parties in rule challenges and appeals of administrative action before various federal circuit Courts of Appeal. In recent matters, Mike represents clients challenging EPA's startup, shutdown, and malfunction SIP call and multiple clients potentially affected by EPA SO2 NAAQS designations in both regulatory and judicial proceedings in courts across the country. In addition, Mike has extensive experience advising clients regarding legislation and regulatory changes involving asbestos.
- Mike represents parties involved in building, maintaining, and operating pipeline infrastructure across the United States in federal and state litigation as well as in discussions with landowners.

Boards, Memberships & Certifications

- American Bar Association
- The Sedona Conference
 - Working Group 1, Member
 - Brainstorming Group on Proportionality in Discovery and Drafting Team regarding the Use of Technology Assisted Review in Litigation, Member

Publications, Presentations & Recognitions

Publications

- *Primer on Crafting eDiscovery Requests with "Reasonable Particularity"*, (co-author) The Sedona Conference (forthcoming 2022)
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- “Discovery in the Modern Age,” *From the Trenches III: Pretrial Strategies for Success*, American Bar Association (2018)
- “Punitive Damages,” in *Business Torts and Unfair Competition Handbook*, American Bar Association Section of Antitrust Law (2014)
- *Scientific Evidence in the Fourth Circuit*, in Cynthia H. Cwik et al. (eds.), *Scientific Evidence Review: Admissibility of Expert Evidence*, Monograph No. 9, American Bar Association Section of Technology & Law (2013)
- *Scientific Evidence in the Fourth Circuit*, in Cynthia H. Cwik et al. (eds.), *Scientific Evidence Review: Admissibility of Expert Evidence*, Monograph No. 8, American Bar Association Section of Technology & Law (2008)
- *Judicial Deference to Educational Judgment*, (co-author) 30 J.C. & U.L. 583 (2004)
- Note, *A Cruel Trilemma: The Flawed Political Economy of Remedies to WTO Subsidies Disputes*, 37 Vand. J. Transnat’l L. 587 (2004)

Presentations

- “Environmental and Energy Law Policy: A Trump vs. Biden Administration,” (speaker) The Chicago Bar Association, Young Lawyers Section, Environmental Law Committee (Oct. 6, 2020)
- “COVID-19 Legal Issues Spotting for In-House Counsel,” Webinar (Apr. 1, 2020)
- “Views on Trump Administration Environmental Policy Updates,” Chicago Bar Association, Young Lawyers Section, Chicago, Ill. (Feb. 21, 2018)
- “Citizen Suits and Community Complaints (Odors),” 2017 Air Quality Management Conference, Oakbrook Terrace, Ill. (Oct. 17, 2017)
- “Citizen Enforcement of the CCR Rule: How Will Enforcement Actions Be Brought, and What Can You Do to Prepare for Them,” (co-presenter) 2017 World of Coal Ash Conference Short Course, Lexington, Ky. (May 8, 2017)
- “Trends & Upcoming Issues in Environmental Law,” (co-presenter) Agricultural Law Section of the Michigan Bar Association (Sep. 22, 2016)
- “Legal Update,” (co-presenter) Midwest Environmental Compliance Conference (Nov. 2, 2016)
- “Ban Asbestos Legislation, Regulation, and Asbestos Litigation,” Defense Research Institute Seminar on Asbestos Medicine, San Diego, California (2010)

Recognitions

- Emerging Lawyer, Law Bulletin Publishing Company's *Leading Lawyers* (2015-2018)
- Illinois Emerging Lawyer, Law Bulletin's *Illinois Leading Lawyers Network* (2015)

Professional Activities

Mike devotes substantial time to pro bono matters, particularly related to civil rights and immigration. Recent engagements include:

- Securing the First Amendment rights of non-religious persons to perform marriages in Illinois and Michigan through federal challenges to unconstitutional interpretations of these states’ family laws.
- Challenging Michigan’s assessment of state sales and use taxes on sales of tampons and other feminine hygiene products, which was removed during the pendency of this litigation by the Michigan legislature.
- Representing a class of foster children in litigation against the Illinois Department of Children & Family Services.
- Representing a class of foster children, in litigation filed by religious groups opposed to same-sex relationships against the State of Illinois to ability of same-sex couples to become foster parents.
- Pursuing civil-rights claims on behalf of incarcerated persons related religious discrimination, unconstitutional conditions of confinement, and in collateral attacks to their original sentences.
- Assisting children and applicants for political asylum to secure the ability to remain in the United

States.

Bar Admissions

[Illinois](#)

[Michigan](#)

[New York](#)

[Virginia](#)

[West Virginia](#)

Court Admissions

[US Court of Appeals, 4th Circuit](#)

[US Court of Appeals, 6th Circuit](#)

[US Court of Appeals, 7th Circuit](#)

[US Court of Appeals, 8th Circuit](#)

[US Court of Appeals, 9th Circuit](#)

[US Court of Appeals, District of Columbia Circuit](#)

[US District Court, Central District of Illinois](#)

[US District Court, Northern District of Illinois](#)

[US District Court, Northern District of Indiana](#)

[US District Court, Eastern District of Michigan](#)

[US District Court, Western District of Michigan](#)

[US District Court, Eastern District of New York](#)

[US District Court, Northern District of New York](#)

[US District Court, Southern District of New York](#)

[US District Court, Northern District of Ohio](#)

[US District Court, Eastern District of Virginia](#)

[US District Court, Western District of Virginia](#)

[US District Court, Northern District of West Virginia](#)

[US District Court, Southern District of West Virginia](#)