



Richard S. Porter

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Richard Porter is the leader of the firm's national Government Practice Group and a member of the firm's Executive Committee. The Government Practice Group is comprised of attorneys that practice in at least one of the following five areas of concentration: Government and Regulatory; Environmental, Land Use, and OSHA; Education Law; White Collar Crime and Investigations; and Appeals. Rick has practiced in all of these areas, emphasizing representing private and public entities faced with litigated and non-litigated environmental, land use, and regulatory issues.

Rick's environmental practice encompasses CERCLA, NEPA, RCRA, Clean Air Act, Clean Water Acts, Phase I and II reports, TACO program, Brownfields programs, NPDES permitting, environmental impact studies, Superfund litigation, underground storage tanks, toxic tort actions, indoor air quality, asbestos abatement and solid waste management.

He represents businesses, municipal entities, and individuals in civil and enforcement actions. He responds to and defends against violation notices from the EPA, the IEPA, and the Office of State Fire Marshall.

Rick has substantial trial experience appearing in state, federal, and appellate courts and hearings before the Illinois Pollution Control Board on environmental issues. He handles disputes, applications, hearings, litigation, and appeals involving proposed land uses, including wind turbines, landfills, transfer stations, river ports, airports, heliports, quarries, pipelines, and ethanol plants.

Representing businesses and municipalities in commercial litigation, Rick has served as lead counsel on bench, jury, appellate, and administrative actions arising out of contracts, warranties, negligence, fiduciary duties, business torts, unfair competition, Uniform Deceptive Trade Practices Act, misappropriation, defamation, securities fraud, fraud-in-the-inducement, non-competition clauses, real estate actions, contractual litigation, insurance coverage, eminent domain actions, trademark and trade dress infringement, workers' compensation and unemployment compensation. He has also handled litigation involving premises liability, products liability, automobile liability, insurance coverage, breach of contract and professional malpractice cases.

In addition to jury and bench trials, Rick handles appeals and administrative actions. His appellate practice includes drafting briefs and presenting oral argument in several Illinois District Courts, the Illinois Supreme Court, and the Seventh Circuit United States District Court. He has also taken and defended

Practices

Commercial Litigation
Environmental
Government
Sustainability & ESG

Industries

Construction
Education
Energy
Gaming

Education

J.D., *cum laude*, Southern Illinois University School of Law, 1992

- Managing Editor, *Southern Illinois University Law Journal*
- Captain, Environmental Law Moot Court Team
- Member, Order of Barristers

B.S., Illinois State University, 1988

Admissions

Illinois

U.S. District Court for the Northern District of Illinois



hundreds of depositions of parties, witnesses, and experts. Rick's alternative dispute resolution experience includes arbitrations, mediations and negotiations, and he is an arbitrator for the Seventeenth Judicial Circuit in Illinois and has handled American Arbitration Association matters.

Rick has significant experience defending clients in the following industries: Construction, Waste Disposal, Government, Manufacturing, Transportation, and Education. For the construction industry, Rick has represented many general contractors and subcontractors and overseen or handled litigated and non-litigated matters involving breach of contract, environmental due diligence and claims, alternative energy, debt collection, mechanics' liens, transportation regulatory compliance and litigation, environmental remediation and litigation, notices of violation, AIA contracting and claims, insurance coverage matters, as well as compliance with local, federal and state regulations, and labor and employment issues.

Likewise, he has several national and international manufacturing clients who produce consumer goods, industry/manufacturing equipment and goods, electrical equipment, and food, dietary and pharmaceutical goods. He has handled or overseen diverse litigated and non-litigated matters arising from breach of contract claims, UCC compliance, nuisance and land use claims, personal injury and property damage matters, labor issues, regulatory compliance issues, packaging and labeling laws and claims, and inspections of facilities. He has particular experience with environmental remediation; environmental audits, assessments, litigation and has handled and overseen various environmental, land use and energy permitting, contracting, development and remediation projects, suits, and issues for the manufacturing sector.

Rick's education law practice includes representing public, private, and religious schools and school districts and institutions on matters arising from public purchasing and bidding, energy and environmental issues, contracts, due diligence, land use, purchasing, and regulatory compliance. He has personally drafted regulatory compliant Requests for Proposals (RFPs) and Requests for Qualifications (RFQs) for goods and services for such entities and drafted contracts for such goods and services. He is well-versed in cell tower, alternative energy (solar, wind and natural gas), power purchase agreements, environmental remediation contracts and issues. He has significant experience with Freedom of Information Act and Open Meetings Act compliance. Rick has represented educational entities as plaintiffs and defendants in litigation in various venues and handled numerous negotiations with private and public parties on behalf of his education clients.

Similarly, for his governmental clients, he handles matters for counties, cities, incorporated and unincorporated townships, park districts, school districts, airport authorities, and other governmental entities and taxing bodies and their employees and elected officials with a particular emphasis on regulatory compliance, environmental and energy matters, eminent domain, compliance and handling of open and closed meetings and hearings, responding to Freedom of Information Act Requests, and gaming and sweepstakes law. Rick has personally drafted many local ordinances for governmental entities, particularly in relation to Wind Energy, Pollution Control and Waste Facilities, Nuisance, Cost Recovery, and Zoning and Public Hearing ordinances. He has acted as counsel at public meetings and as a hearing officer for such entities and on occasion, has been recognized as a Special Assistant States Attorney.

Likewise, he represents private and public entities within the transportation industry, including airports, aircraft owners, transportation companies, and manufacturers in matters involving breaches of contract, energy and environmental contracting and due diligence, attendance and handling of public meetings and hearings. He is also involved in suits and negotiations involving railroads, including matters with the Surface Transportation Board and the Illinois Commerce Commission.

Rick joined Hinshaw in 1992.

Honors & Awards

- Recognized by his peers as a Leading Lawyer in the category of Environmental Law
- Rated by Martindale-Hubbell for ethics and legal ability



Representative Matters

- *County of Kankakee v. Illinois Pollution Control Board, City of Kankakee, and Kankakee Regional Landfill*. Represented Kankakee County at Illinois Pollution Control Board hearing and successful Illinois Third District appeal by conducting oral argument and drafting brief which resulted in defeating a municipality's effort to approve the siting of a landfill in the County which violated 415 ILCS 5/39.2 designed to protect health, safety, and welfare.
- *City of Morris v. CLC*. Acquired \$17.5 million judgment against operator of landfill on behalf of City who owned land beneath landfill and defeated injunctive motion by State of Illinois against City related to same landfill.
- *Timber Creek Homes v. Groot Industries and IPCB*, 2015 IL App(2) 140909-U. Successfully represented waste company in waste transfer station siting hearing in the Village of Round Lake resulting in approval of client's application and successful defense of appeal to IPCB and Illinois Second District Appellate Court – drafting of brief and presentation of oral argument.
- Represented largest PRP of large Superfund site in CERCLA cost recovery action in Federal Court in Wisconsin.
- Defended and negotiated successful resolution of Notice of Violation issued by Illinois Environmental Protection Agency (IEPA) against hospital for alleged improper record keeping and disposal of pharmaceuticals without any penalty or judgment against hospital.
- Represented landfill company against hundreds of plaintiffs in alleged nuisance claim related to odor resolving same at mediation without judgment against company and entirely paid for by insurance proceeds.
- Argued to Illinois Supreme Court on insurance coverage issue and 7th Circuit Court of appeals on eminent domain issue.
- Represented manufacturing company in alleged contamination of water of the state and violation notice from 14 acre industrial site in Rockford Illinois. Coordinated nearly \$6 million cleanup, successful settlement via consent decree, and receipt of comprehensive No Further Remediation letter from IEPA. Entire cost of approximately \$6 million was paid by the prior owner and not any cost paid by our manufacturing client.
- Represented concrete company in the purchase of numerous ready-mix facilities personally handling all environmental due diligence and investigation and compiling and consulting with team to handling other aspects of mergers and acquisitions.
- Represented client in successful purchase of approximately \$30 million in real estate including commercial buildings and parking structures and contracts with lender regarding same.
- *RK Company v. Harvard Scientific and Jackie See M.D.*, 2007 U.S. Dist. LEXIS 21651. Successfully represented plaintiff client in federal lawsuit against pharmaceutical company and physician for false statements inducing investment and violations of the Securities Exchange Act. Acquired judgment of over \$1.5 million after federal trial which was affirmed by 7th Circuit Court of Appeals.
- Successfully negotiated Clean Air Act and nuisance claims against commercial business contaminating school district property resulting in cessation of offensive operations and remediation.
- Coordinated investigation and remediation of newly acquired school district property with oil impacted soil.
- Negotiated and resolved, without penalty or court order, Violation Notices from the Illinois Environmental Protection Agency issued to foreclosing lender that acquired property with alleged leaking underground storage tank.
- Phase One and Phase Two investigation and coordination of remediation of radiation contaminated soils in acquisition.
- Conducted Environmental Audits and implementation of Environmental Management Systems for hospitals.
- Coordinated Environmental Audit of adhesive film material manufacturing facility.
- Successfully defended IEPA Violation Notice against salvage company resulting in no judgment or civil penalty against company.
- Successfully represented owner of commercial property in Nebraska federal court where tenant alleged violation of exclusivity provisions of lease. Affirmed by Eighth Circuit Court of Appeals.
- *Land and Lakes Co. v. Will County Board*, successfully represented Will County Board at Illinois Pollution Control Board and Illinois 3rd District Appellate Court where drafted brief and presented oral argument that resulted in affirming decision of the County Board granting landfill siting application to Waste Management Inc. and determining that the County proceedings were fundamentally fair.



- *Hamrick et al. v. United States Et Al.*, 107 F.Supp3d 910. Successfully represented plaintiffs who, in trial court motion, asserted that the U.S. Government and certain companies failed to adequately comply with the National Environmental Policy Act resulting in order that a finding of an automatic categorical exclusion by the General Services Administration of U.S. Government was arbitrary and capricious.
- Represented numerous landowners and several governmental entities in local hearings and resultant circuit court cases concerning proposed Industrial Wind Turbine Projects throughout Illinois and consulted in regard to other states. Conducted negotiations and drafting of settlement agreements regarding same. Drafting of Wind Energy Conversion System ordinances for several governmental entities and participation in local hearings regarding same.
- Represented numerous landowners in regard to federal eminent domain actions for underground natural gas pipeline.
- Successfully represented company in claim by PRP related to Mig-Dewane landfill CERCLA/Superfund site based upon DeMicromis defense.
- Successfully negotiated and settled claim brought by United States Environmental Protection Agency against construction industry company for alleged Clean Air Act violations from dust with no financial penalty.
- Successfully negotiated Notice of Violation of Clean Air Act brought by U.S. EPA against company in construction industry by using Supplemental Environmental Project.
- Negotiated resolution of IEPA Notice of Violation against construction company for alleged failure to obtain permit and air quality violations by entry of Compliance Commitment Agreement only with no penalty or court order.

Presentations

- Co-Presenter, "PFAS: Emerging Topics for the Forever Emerging Contaminant," In-House Client Training, Princeton, New Jersey, September 12, 2023
- Panelist, "PFAS: Overview, Regulatory Setting, and Future Considerations," St. John-Mittelhauser & Associates, Virtual Event, June 28, 2021
- "Environmental Compliance for Healthcare Entities: Is Your Environmental Management System in Shape?" Hinshaw's Health Care Webinar Series, May 2013
- "Current Issues in Wind Turbine Development—Don't Get Blown Away," Lorman Education Services, live audiocast, June 2011
- "Environmental Law Compliance for Health Care Facilities," Illinois Health Care Association Convention, Springfield, Illinois, September 2006
- "Environmental Consultant Liability Under the New All Appropriate Inquiry (AAI) Rule," Environmental Data Resources, Inc.'s seminar series, "Due Diligence at Dawn," St. Louis, Missouri, November 2005; Minneapolis, Minnesota, March 2006; and again in Chicago, Illinois, April 2006
- "Environmental Issues in Land Development," Lorman Education Services seminar, "Zoning and Land Use in Illinois," Rockford, Illinois, September 2005
- "Environmental Law Update," Hinshaw's 2005 Breakfast Seminar Series, Rockford, Illinois, April 2005

Publications

- Co-Author, Chapter 21, "Environmental Risk Management," *Enterprise Risk Management Handbook for Health Care Entities Fourth Edition*, American Health Lawyers Association, 2024
- "Environmental Compliance in the Context of ERM," *Enterprise Risk Management Handbook for Healthcare Entities (Third Edition)*, American Health Lawyers Association, 2017
- "Environmental Compliance in the Context of ERM," *Enterprise Risk Management Handbook for Healthcare Entities (Second Edition)*, American Health Lawyers Association, 2013
- "Environmental Compliance in the Context of ERM," *Enterprise Risk Management Handbook for Healthcare Entities (First Edition)*, American Health Lawyers Association, 2009
- "Comment, Environmental Law: Application of the Responsible Corporate Officer Doctrine to the Resource Conservation and Recovery Act," 16 S.I.U.L.J. 687, 1991



- "Case Note: Extraterritorial Application of Title VII in *Bourseian v. Aramco*," 15 S.I.U.L.J. 645, 1991