

MANKO | GOLD | KATCHER | FOX LLP

AN ENVIRONMENTAL AND ENERGY LAW PRACTICE



John F. Gullace

Partner

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Biography:

John Gullace has extensive experience handling environmental litigation and alternative dispute resolution ("ADR") matters for clients ranging from Fortune 500 companies to smaller closely held businesses and individuals. John has represented clients in the railroad, telecommunications, chemical, waste, retail, heavy industrial, construction, municipal, financial and other sectors in a broad array of environmental matters including the defense of natural resource damages claims, sediment litigation, the defense and prosecution of private and government initiated environmental cost recovery claims, the defense of government penalty actions, permit challenges and administrative appeals, as well as on-scene emergency responses, government inspections and complex negotiations during litigation or pre-litigation regarding site remediation, access, insurance coverage and financial terms. John's representations include the following:

- defense of natural resource damages claims brought by the State of New Jersey, one of which involved a demand of more than 800 acres of compensatory land from a client;
- defense of private and government initiated environmental cost recovery claims brought in federal court as well as the courts of New Jersey and Pennsylvania;
- litigation to recover costs incurred by clients conducting environmental cleanups from other responsible parties, as well as negotiations with insurers to recover such costs;
- representation of multiple clients in a large, complex, multi-year ADR process to resolve a state and federal claim for costs and natural resource damages in excess of \$100 million;
- defense of claims in a large North Jersey sediments case including state court litigation under the Spill Act and negotiations with various federal agencies and trustees under agreements and CERCLA orders;
- defense of claims for clean-up costs associated with historical contamination of sites in various jurisdictions including PA, NJ, MA and CT;

- more -

- defense of nuisance and other common law and statutory claims designed to shut down or impair clients' operations;
- representation of parties in mediation regarding environmental contractual provisions, as well as complex allocations;
- defense of government penalty assessments under the federal Toxic Substances Control Act, New Jersey Air Pollution Control Act, Pennsylvania Air Pollution Control Act, Pennsylvania Clean Streams Law, Pennsylvania Solid Waste Management Act, and Pennsylvania Hazardous Sites Cleanup Act;
- administrative appeals of government orders and other final agency actions under various Pennsylvania statutes before the Pennsylvania Environmental Hearing Board;
- permit challenges, both defending permitting decisions and challenging permits;
- defense of an erosion and sedimentation permit challenge brought by a neighbor seeking to block a large wind farm project in northeastern Pennsylvania;
- defense of citizen suits;
- defense of a small municipality sued in federal and state court by a citizens group trying to shut down the municipal wastewater treatment plant;
- on-scene emergency response for railroad derailments involving shipments of hazardous materials and evacuation orders, as well as follow-up compliance reporting and representation during government investigations;
- complex negotiations and litigation with property owners over deed notices and access on private property necessary for implementation of a large Superfund and Spill Act cleanup in New Jersey;
- *amicus curiae* briefing before the Pennsylvania Supreme Court on behalf of state-wide and regional trade organizations regarding water withdrawal rights and governmental jurisdiction under the Susquehanna River Basin Compact; and
- administrative appeals before the Pennsylvania Environmental Hearing Board on wastewater and sewage facilities planning issues including matters involving the Chesapeake Bay Tributary Strategy and a matter involving the interplay between the jurisdictions of the Pennsylvania Public Utilities Commission and the Pennsylvania Department of Environmental Protection.

John is also a trained ADR practitioner representing ADR participants and, in conjunction with other members of the firm, providing neutral services. John received his mediator and arbitrator training through the International Institute of Conflict Prevention and Resolution (CPR).

John served as a law clerk to the Honorable James L. Latchum of the United States District Court for the District of Delaware before entering private practice in 1991. John joined Manko, Gold, Katcher & Fox LLP in 1994. John is an active member of the American Bar Association, Section of Environment, Energy and Resources (ABA SEER). In 2010, John was appointed Chair of the ABA SEER Committee. He served as the Committee's Vice Chair from 2008-2010.

John joined the Board of Directors of the Lower Merion Conservancy in 2010, an organization for which he was a founding member of in 1994. John served on the Lower Merion Township Environmental Advisory Council from 2002 through 2010, and served as chair of the Council from 2005 through 2008, and served as Vice Chair in 2004. From 1999 to 2004, John was a member of the Partners Program Advisory Board, an organization that pairs urban and suburban classrooms to foster inter-cultural competence.

John has written a number of articles and has been a program organizer and speaker on various environmental topics, including environmental litigation, ADR, and sustainability for such organizations as the American Bar Association, the Delaware Valley Regional Planning Commission, the Pennsylvania Bar Institute, the Pennsylvania Chamber of Business and Industry, the Montgomery Bar Association, and the Dispute Resolution Institute. Partial listings of his speaking engagements and articles may be found below.

Education:

- New York University School of Law, J.D., 1990
- Haverford College, B.A., 1987
- London School of Economics and Political Science, general course, 1986

Memberships:

- Bar admissions in Pennsylvania, New Jersey, United States Supreme Court, Third Circuit Court of Appeals, Eastern District of Pennsylvania, District of New Jersey
- Montgomery Bar Association (Environmental Law Committee - Chair, 1999, 2000, 2002; Vice-Chair, 2001)
- American Bar Association (Sections of Litigation; Environment, Energy and Resources; Dispute Resolution Committee – Chair 2010-2011; Vice Chair 2008-2010)

Speaking Engagements:

- “Sustainability: How Values-Driven Law Firms are Surviving Tough Times and Prospering Over the Long Term” panelist for the ABA SEER program in Chicago, IL, November 3, 2010
- “Practicing Law in a Fishbowl—The New Reality of Engaging the Public in Environmental Decision-Making,” program organizer and presenter, American Bar Association, Section of Dispute Resolution, ABA Annual Meeting, San Francisco, CA, August 6, 2010
- “Understanding BNSF and Santa Fe Railway v. U.S., 129 S.Ct. 1870 (2009)” presenter for ABA SEER Quick Teleconference program *Top 10 Environmental Developments of 2009, Part I*, January 22, 2010
- “Settlement and Alternative Dispute Resolution” presenter and program organizer for ABA SEER *Basic Practice Series Program: Environmental Litigation from Case Intake Through Trial or Settlement*, ABA SEER Fall meeting, Baltimore, MD, September 25, 2009
- “Futuristica’s Growing Pains, Mock Public Hearing” presenter and program organizer for ABA SEER annual fall meeting, Baltimore, MD, September 24, 2009
- “Understanding BNSF and Santa Fe Railway v. U.S., 129 S.Ct. 1870 (2009)” presented at the Montgomery Bar Association, Environmental Law Committee continuing legal education program, Norristown, PA, August 12, 2009
- “Issues Associated with Municipal Green Building Initiatives” presented at the Montgomery County Bar Association, Environmental Law Committee continuing legal education program, *Environmental Initiatives in Alternative Energy and Sewage Planning*, Norristown, PA, October 30, 2008

- "Legal Aspects of Green Zoning/Building in Pennsylvania and New Jersey" presented at the Delaware Valley Regional Planning Commission and American Planning Association (Pennsylvania Chapter, Southeast Section) program *Planning for Sustainability: Green Codes and Planning*, Philadelphia, PA, October 6, 2008
- "Local Environmental Initiatives" and "Environmental Roundtable" presented at the Pennsylvania Chamber of Business and Industry *2008 Annual Environmental Laws and Regulations Conference and Trade Show*, Lancaster, PA, April 1, 2008
- "Environmental Advisory Councils and Local Environmental Initiatives" presented at *Focus the Nation, Global Warming Solutions for America, Environmental Teach-In*, Rosemont College, Rosemont, PA, January 31, 2008
- "Environmental Litigation Issues in Real Estate Development" presented at the Manko, Gold, Katcher & Fox LLP continuing legal education program *Real Estate Development and Environmental Permitting in Northeastern Pennsylvania*, Scranton, PA, November 14, 2007
- "Environmental Advisory Councils and Local Environmental Initiatives" presented at the Montgomery Bar Association, Environmental Law Committee continuing legal education program *Local Environmental Regulation*, Norristown, PA, August 8, 2007
- "The Transformation of Private Cost Recovery Actions Under CERCLA *Cooper Industries v. Aviall Services, Inc.*, 125 S. Ct. 577 (2004)" presented at the Montgomery Bar Association, Environmental Law Committee continuing legal education program *New and Timely Environmental Law Topics*, Norristown, PA, August 2, 2005
- "Pennsylvania's New Clean Fill Policy" presented at the Montgomery Bar Association, Environmental Law Committee continuing legal education program *Timely Environmental Law Topics*, Norristown, PA, August 19, 2004
- "Managing Environmental Risk Through Environmental Insurance" presented at the Montgomery Bar Association, Environmental Law Committee continuing legal education program *Environmental Practice Update 2003*, Norristown, PA, August 21, 2003
- "A Comparison of the Federal and Pennsylvania Judicial Systems," presented as guest lecturer for Federal Courts course, Villanova Law School, Villanova, PA, February 14, 2003 and November 21, 2001
- "Objectives of Buyer and Seller in a Commercial Transaction" presented at the Montgomery Bar Association, Environmental Law Committee continuing legal education program *Environmental Issues in Real Estate Transactions*, August 15, 2001
- "Environmental Litigation: An Overview of Various Private Party Claims" presented at the Dispute Resolution Institute, Philadelphia, PA, April 3, 2001
- "Environmental Litigation: An Overview of Various Private Party Claims" presented at the Montgomery Bar Association, Environmental Law Committee continuing legal education program *Environmental Law for the General Practitioner*, Norristown, PA, August 17, 2000
- "Environmental Mediation Role Play" presented at the Pennsylvania Bar Institute *Environmental Law Forum*, Harrisburg, PA, April 15, 1999
- "Legal Aspects of Radon and Real Estate Transactions" presented at the Mid Atlantic Environmental Hygiene Resource Center program *Radon and Real Estate Transactions*, State College, PA, October 28, 1998
- "Common Law Claims Frequently Raised in Storage Tank Litigation" presented at the Montgomery Bar Association, Environmental Law Committee continuing legal education program *Private Causes of Action in Storage Tank Litigation*, Norristown, PA, August 20, 1998
- "Liability for Environmental Issues in Real Estate Sales" presented at the Environmental Law Institute program *Radon Awareness for Real Estate Professionals*, West Conshohocken, PA, October 9, 1997

Articles:

- "The Green Revolution at the Local Level," *The Legal Intelligencer*, June 16, 2008
- "Is There a Government Agency or Required Certification Process that Ensures that 'Green' Product Claims Are True?," *Mid Atlantic Real Estate Journal*, April 25-May 8, 2008
- "An ounce of prevention . . . preventing environmental emergencies," *NJPA Real Estate Journal*, June 8-21, 2007
- "The Third Circuit Tackles Thorny CERCLA Issues," *The Legal Intelligencer*, September 15, 2005
- "Conflicting Opinions Add to Haze in Environmental Claims: Supreme Court Decision Impacts Camden Case," *The Legal Intelligencer*, May 17, 2001
- "EPA's Foray Into Alternative Dispute Resolution," *The Legal Intelligencer*, January 18, 2001
- "Alternatives to Environmental Litigation: Until We Change the Way We Pay for Environmental Cleanups, ADR Is Corporate America's Best Bet," *The Metropolitan Corporate Counsel*, August 1999 (co-authored)
- "Jonathan Harr's *A Civil Action*: As Only a Lawyer Could Read It," *Philadelphia Lawyer*, Winter 1998 (co-authored)
- "Negligence Exceptions to Superfund's Strict Liability Scheme," *Environmental Compliance Litigation*, February 1997
- "Recent Court Interpretations Muddy Insurance Pollution Exclusions Landscape," *The Legal Intelligencer*, August 8, 1996 (co-authored)