

Daniel F. Mulvihill

Partner

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New York

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Dan is an environmental litigator with first chair experience in CERCLA, RCRA, Clean Water Act and SDWA cases and their state counterparts. He has led trial teams in Superfund matters on the east and west coasts. He has both brought and defended CERCLA cost recovery around the country and served as the State of New York's lead trial lawyer in cost recovery and natural resource damages actions under New York's State Superfund program.

Dan also counsels clients in negotiating permits and defending enforcement actions, and he advises municipal water utilities on a variety of environmental and energy matters relating to large infrastructure projects.

Prior to joining Marten Law, Dan was Deputy General Counsel for the New York City Department of Environmental Protection, which serves as the city's water supply and wastewater utility. Dan also worked as an Assistant Attorney General for the State of New York, serving as the Section Chief for the Cost Recovery Division in the Office of the Attorney General's Environmental Protection Bureau.

EDUCATION

J.D., *cum laude*, Cornell Law School (2001)

B.A. [in Environmental Sciences], University of Virginia (1995)

ADMISSIONS

State Bars of New Jersey, New York, Washington and Oregon

Third Circuit Court of Appeals, Court of Appeals for the D.C. Circuit

U.S. District Court, District of New Jersey

U.S. District Courts, Eastern, Southern and Western Districts of New York

U.S. District Court, District of Oregon

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Representative Matters

- Represents municipalities in New Mexico in a CERCLA cost recovery action relating to regional contamination of municipal drinking water supplies.
- Works with municipalities, construction companies, and real estate developers to navigate legal issues relating to emerging contaminants including PFAS and 1,4-dioxane.
- Represented the New York City Department of Environmental Protection in Superfund matters, including the Gowanus Canal and Newtown Creek Superfund Sites, assisting the agency regarding allocation of liability, remedial design and implementation of a CERCLA remedy, and the evaluation of natural resource damages.
- Served as the State of New York's lead trial lawyer in a successful CERCLA cost recovery and natural resource damages arising from multiple plumes of VOC contamination in groundwater on Long Island. The court also held on summary judgment that defendants were liable for natural resource damages. See *New York v. Next Millennium Realty LLC*, 160 F.Supp.3d 485 (E.D.N.Y. 2016).
- Developed and litigated a successful CERCLA cost recovery claim against the United States for perchlorate contamination at a former defense contractor facility in Southern California.
- Obtained an order that the purchaser and his client's property, and the purchaser's corporate successor were obligated to indemnify his client for multimillion dollar Superfund cleanup and natural resource damages claims arising from USEPA and NJDEP actions at the Lower Passaic River Study Area.
- Prosecuted Superfund cost recovery and RCRA citizen suit against private and government parties relating to the unlawful operation of hazardous waste at a storage facility in New Jersey.
- Counseled client in connection with state and municipal criminal and civil enforcement actions arising from off-site PCB-contamination as a result of decommissioning activities at a manufacturing plant in New Jersey.
- Defended real estate investment trust in MTBE groundwater contamination multi-district products liability litigation.
- Defended a dry-cleaning solvent manufacturer and a dry-cleaning equipment manufacturer in action for PCE groundwater contamination in Suffolk County, Long Island.
- Represented global chemical manufacturer in defense of over 120 personal injury suits arising from alleged exposure to PCE in "float sink" laboratories in West Virginia. Obtained client's dismissal from all cases following preliminary discovery on product identification and causation.
- Represented *pro bono* an American mother appealing an order from the U.S. District Court in New Jersey that mandated the return of her daughter to Argentina pursuant to the Hague Convention on the Civil Aspects of International Child Abduction. Dan argued that the Convention's "grave risk of harm" exception applied because father physically, sexually and verbally abused the child in Argentina. After oral argument, the United States Court of Appeals for the Third Circuit overturned the District Court's order from the bench, and dismissed the father's petition to return the child to Argentina.

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Recognition and Activities

New Jersey Volunteer Lawyers for Justice, *Pro Bono Attorney of the Year*, 2009

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