

MVP: Beveridge & Diamond's Eric Klein

By Juan-Carlos Rodriguez

Law360 (October 6, 2023, 1:08 PM EDT) -- Beveridge & Diamond PC litigator Eric Klein has led the firm's clients to several significant legal victories over the last year, from key rulings in a sprawling California Superfund case to a big win in the U.S. Environmental Protection Agency's administrative law forum, earning him a spot among Law360's 2023 Environmental MVPs.

His biggest accomplishment over the past year:

Klein, a principal and deputy general counsel at Beveridge & Diamond, said that this year he is most proud of something that he achieved outside the courtroom — launching a mock trial program for public high school students to teach them about environmental justice and the law.

He said it's been a goal since he was a new attorney to get such a project rolling, both to familiarize students with the law and environmental justice concepts and to help build a pipeline for a more diverse legal profession.

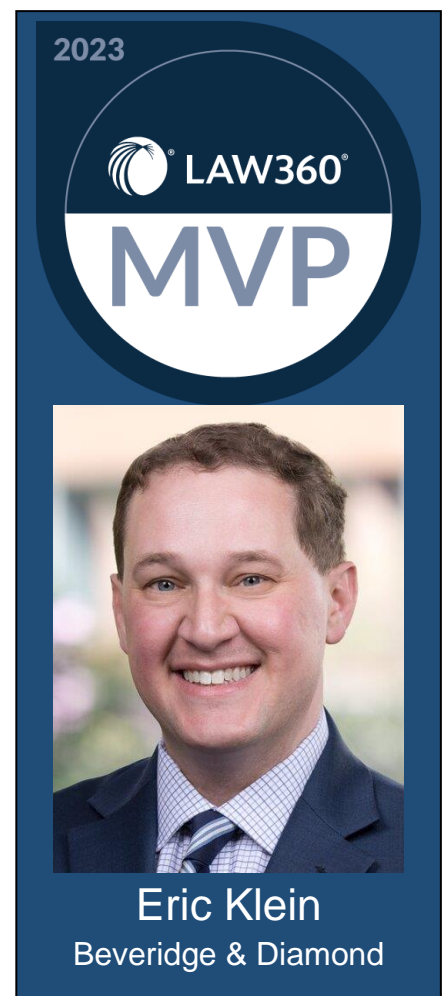
"It's designed to make environmental law interesting to the students and to draw them in by showing them how complex and challenging the fight for environmental justice can be," he said. "Environmental justice is so much at the foundation of environmental law, and it's even important for people who are not environmental lawyers to understand it. I think it's going to be a cornerstone of environmental law for the rest of my career."

His biggest challenge:

Klein is representing battery manufacturer Clarios LLC in a lawsuit brought by the California Department of Toxic Substances Control, which is suing several companies under the Comprehensive Environmental Response, Compensation and Liability Act for costs related to the cleanup of a battery recycling plant in Los Angeles County.

The litigation has been divided into a few phases, two of which have been completed.

In the first phase, Klein helped convince the federal judge overseeing the case to issue a groundbreaking decision drastically reducing the geographic area the department could assert claims over.



In the second phase, Klein helped further narrow the scope of the case by obtaining a ruling that the DTSC could not pursue allegations that the companies contaminated a regional groundwater aquifer. And the judge ruled that CERCLA's exemption for scrap metal and battery recycling is applicable to California's contaminated site cost recovery statute, so battery recyclers have much less liability than the state alleged.

But Klein said the complex case has proceeded much faster than normal CERCLA cases due to the judge's experience with this type of matter.

"He told all the lawyers at the beginning of the case, 'While a war might last a year, lawyers only need a few months to get through discovery and trial, even in a big, complex CERCLA trial,' and he set the schedule accordingly," Klein said with a laugh.

He said the parties had about 5½ months to get ready for trial, when eight months might have been more expected. It left less time for data to be processed and experts to prepare, he said.

His proudest moment:

In the same case, Klein said he's especially proud that all nine defendants managed to stay aligned and united through that phase of the case, despite having differing interests in other parts.

"There's a lot of credit to go around, but those relationships that I developed did help to maintain the unity of the defense when that defense occasionally did come under strain," he said.

He said the different defendants have different interests and varying positions that are driven by their varying circumstances, so there were a lot of times when what might have been ideal for one or another defendant needed to be deemphasized in order to benefit the whole.

"It's a classic collective action problem, where what's best for your client in a given situation may not align perfectly with what's the best for the group," Klein said. "And persuading your colleagues — and allowing them to persuade me, from time to time — that we should put the interests of the group first was tricky because sometimes it means you're asking someone to put aside what they might want in an ideal circumstance in order to benefit others."

His advice for younger attorneys:

Following up on his experience in the CERCLA case, Klein said young attorneys must prioritize their relationships with all the people they intersect with.

"You will succeed in this profession if you are successful in your relationships with other people," he said. "And that means trying to get to know as many people as you can, and, especially, it's trying your best to see things through their eyes with respect and good faith."

"That's the target, that is what allows you to do well if you can manage it. And above all else, I think it's so critical to be honest and straightforward with people. You have to treat your credibility as your most precious asset. I've seen lawyers lose it, and you absolutely can't come back from that."

Other matters of note:

Also this year, Klein successfully represented ISP Freetown Fine Chemicals Inc. in an administrative challenge to the EPA's allegation that some types of tanks that distill chemicals used in cosmetic and personal care products were actually hazardous waste storage tanks operated in violation of certain Resource Conservation and Recovery Act requirements.

An EPA administrative law judge sided with Freetown and said the tanks are exempted from RCRA requirements because "the risk of harm does not occur until the 'hazardous waste leaves the manufacturing units' and is piped to the appropriate storage tank for disposal."

"It was particularly meaningful to us because EPA has been attempting to regulate tanks like this across the country in recent years as part of a nationwide initiative," Klein said. "So this ruling stretched beyond the borders of this one client, and we felt good that our challenge may have led to a fairer application of this law for other manufacturers around the country."

--As told to Juan-Carlos Rodriguez.

Law360's MVPs of the Year are attorneys who have distinguished themselves from their peers over the past year through high-stakes litigation, record-breaking deals, and complex global matters. A team of Law360 editors selected the 2023 MVP winners after reviewing more than 900 submissions.