



## Robert Brager

Principal

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**Rob is recognized as one of the country's top environmental lawyers, providing counseling, litigation, and negotiation services for Beveridge & Diamond clients since 1981.**

Both a litigator and a counselor who uses his decades of experience in environmental law to help clients make reasoned judgments in complicated and difficult situations, Rob provides dispassionate, analytical thinking based on unbiased facts that have survived skeptical challenge.

Rob chose a career in environmental law due to the variability and breadth of the environmental law practice. Rob relishes addressing the complexities associated with the interplay between science and bias that present themselves in environmental counseling, rulemaking, and litigation.

Accomplishments of which Rob is particularly proud include persuading the D.C. Circuit that "safe" does not mean "risk free" when defending the continued manufacture and use of a chemical that EPA had identified as a known human carcinogen but that also was needed for essential products, such as blood bags and blood transfusion equipment. In that case, his opponents asked the court to find that the Clean Air Act's "ample margin of safety" requirement mandated zero risk. Rob explained that, in the context of carcinogens and EPA's risk assessment model, "zero risk" would mandate massive shutdowns because the complexities in animal testing and the limits inherent in modeling and statistical analysis made it impossible to distinguish between zero risk and low risk. The court relied on Rob's explanations to rule in his clients' favor.

In another notable matter, EPA issued a Clean Water Act permit without a mixing zone by relying on a state certification that was withdrawn by the state agency shortly after issuance. Rob convinced the First Circuit that EPA's action was irrational, and the Court reversed EPA's decision even though it held that EPA had the authority to do as it had done.

Rob works with clients to evaluate and minimize risks associated with emerging chemicals of concern, such as Per- and Polyfluoroalkyl (PFAS) substances and Ethylene Oxide.

Rob is a former B&D Managing Principal. He lectures and publishes articles on the air toxics, permitting, and enforcement provisions of the Clean Air Act, as well as on cost-effective means of avoiding and defending against enforcement actions and prosecuting and defending cost recovery and natural resource damages litigation.

Rob served as law clerk for Judge Aubrey E. Robinson, Jr. of the United States District Court for the District of Columbia.

### **Education**

- Columbia University (B.A., *magna cum laude*, 1975)
  - Phi Beta Kappa
- London School of Economics (M.Sc., 1976)
- Columbia University (J.D., 1979)
  - Harlan Fiske Stone Scholar

### **Bar Admissions**

- New York
- District of Columbia
- Maryland

### **Court Admissions**

- U.S. Supreme Court
- U.S. Court of Appeals - D.C. Circuit
- U.S. Court of Appeals - First Circuit
- U.S. Court of Appeals - Fourth Circuit
- U.S. Court of Appeals - Fifth Circuit
- U.S. Court of Appeals - Tenth Circuit
- U.S. District Court - District of Columbia
- U.S. District Court - Maryland
- U.S. District Court - Southern District of New York
- U.S. District Court - Eastern District of New York
- U.S. District Court - Northern District of New York
- U.S. District Court - Southern District of Texas
- U.S. District Court - Northern District of California
- U.S. District Court - Colorado
- U.S. Court of Appeals - New York
- New York Supreme Court - Appellate Division, Third Judicial Department
- Maryland Supreme Court
- Illinois Supreme Court

- U.S. Court of Appeals - New York

### **Community Involvement**

Rob serves on the board of Meals on Wheels of Central Maryland, a non-profit organization that delivers meals to people of limited means.

### **Honors & Awards**

- *The Best Lawyers in America*®, a Best Lawyers® publication, recognition in Commercial Litigation (2013-2024)
- *The Legal 500*, recognition in Environmental Litigation (2017-2019)
- *Super Lawyers, part of Thomson Reuters*, Maryland Super Lawyer (2011-2012)
- Capital Pro Bono Honor Roll (2022)

## **Litigation**

### **Environmental**

Rob has more than 40 years of litigation experience defending enforcement, toxic tort, and class action cases in federal and state courts across the country, including:

- Representing companies in product liability litigation involving alleged toxic torts to land, such as when every day compounds like gasoline, dry cleaning solvent, and firefighting foam enter the environment.
- Representing companies addressing litigation and potential litigation associated with the discharge and/or emissions of complex substances, such as per- and polyfluoroalkyls (PFAS) and ethylene oxide.
- Handling other types of contaminated property litigation, such as cost recovery and natural resource damages litigation under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and related state laws.
- Representing companies in permit, variance, and enforcement proceedings (administrative, civil, and criminal) under the Clean Air Act and the Clean Water Act, as well as individuals who have been charged with being “operators” under the Clean Air Act.

### **Non-Environmental**

He also represents clients in a variety of non-environmental litigation, including:

- Breach of contract
- Breach of indemnity
- Torts to land

- Defamation.

## Compliance Counseling

Rob's long-standing counseling practice involves all aspects of environmental compliance, with a particular focus on Clean Air Act regulations, including:

- Benzene Waste Operations National Emission Standards for Hazardous Air Pollution (NESHAP)
- Vinyl Chloride NESHAP
- Refinery Maximum Achievable Control Technology (MACT)
- Fiberglass MACT
- New Source Performance Standards for petroleum refineries and storage tanks
- Prevention of Significant Deterioration
- Non-Attainment New Source Review

## Agency Rulemaking

Rob represents trade associations and companies in rulemaking proceedings under the Clean Air Act (including the air toxics and enforcement sections) and the Clean Water Act.