

Richard S. Porter

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He/Him

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About Rick

Rick is the leader of the firm's national Government Practice and a member of the firm's Executive Committee. Rick and his team advise and defend clients in government and regulatory matters; environmental, land use, and OSHA compliance and enforcement; education law; white collar investigations and prosecutions; and appellate advocacy. He represents public and private entities in both litigated and pre-litigation matters, with a focus on environmental, land use, and broader regulatory issues, including permitting, compliance counseling, agency investigations, enforcement actions, and appeals.

His environmental practice covers areas such as CERCLA, NEPA, RCRA, and the Clean Air and Clean Water Acts. Rick conducts Phase I and II assessments, manages the TACO program, oversees Brownfields programs, and obtains NPDES permits. His work also includes environmental impact studies, Superfund litigation, underground storage tank issues, toxic tort actions, indoor air quality, asbestos abatement, and solid waste management.

Rick represents businesses, municipalities, and individuals in civil and enforcement actions, providing defense against violation notices from the EPA, Illinois EPA (IEPA), and the Office of the State Fire Marshal.

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 various commercial litigations as lead counsel, his experience includes bench, jury, appellate, and administrative actions related to contracts, negligence, business torts, unfair competition, misappropriation, defamation, securities fraud, non-competition clauses, insurance coverage,

eminent domain, trademark infringement, and professional malpractice. He also deals with premises, products, and automobile liability cases along with breach of contract matters.

Rick handles jury and bench trials, appeals, and administrative actions. He drafts briefs and presents arguments in Illinois District Courts, the Illinois Supreme Court, and the Seventh Circuit Court of Appeals. With extensive experience in alternative dispute resolution, he serves as an arbitrator for the Seventeenth Judicial Circuit in Illinois and works with the American Arbitration Association.

Rick has extensive experience representing clients in industries such as construction, waste disposal, government, manufacturing, transportation, and education. In the construction sector, he has assisted general contractors and subcontractors with both litigated and non-litigated matters, including breach of contract, environmental claims, alternative energy, debt collection, mechanics' liens, transportation compliance, and labor issues.

He has a diverse portfolio of national and international manufacturing clients in consumer goods, industrial equipment, electrical equipment, and food and pharmaceuticals. His experience includes managing litigated and non-litigated matters related to breach of contract, UCC compliance, land use claims, personal injury, labor disputes, and environmental issues, with a focus on environmental remediation and related permitting projects.

Rick's education law practice serves public, private, and religious schools, as well as school districts. He focuses on issues such as public purchasing, energy concerns, contract development, and regulatory compliance. Rick drafts Requests for Proposals (RFPs) and Requests for Qualifications (RFQs) and possesses proficiency in alternative energy agreements and compliance with the Freedom of Information Act. Additionally, he has represented educational entities in both litigation and negotiations.

Rick represents governmental clients, including counties, cities, townships, park districts, school districts, airport authorities, and other public entities, along with their employees and elected officials. He focuses on regulatory compliance, environmental and energy matters, eminent domain, public meeting laws, Freedom of Information Act responses, and gaming regulations. He drafts ordinances on wind energy, waste and pollution control, nuisance, zoning, and cost recovery, and frequently serves as counsel or hearing officer at public meetings. He has also been recognized as a Special Assistant State's Attorney.

In the transportation sector, Rick advises airports, aircraft owners, transportation companies, and manufacturers on contract disputes, environmental and energy matters, and public proceedings. He handles railroad-related litigation and negotiations, including matters before the Surface Transportation Board and the Illinois Commerce Commission.

Areas of Focus

Industries: Construction; Education; Energy & Environment; Government

Experience

- Facilitated the operation and expansion of two slag granulators, valued at approximately \$20 million, for slag cement production in Indiana. Initially, the state agency determined the granulators were the same major source as a nearby metals manufacturing facility, which restricted the construction of the second granulator. The Hinshaw team pursued two administrative actions challenging this finding, engaging in strategic discussions with state officials that resulted in a determination that the granulators are separate projects, exempt from aggregation for new source review emissions calculations under Title V air permitting. This outcome enabled the client to operate and expand their facilities, leading to the creation of an industry-changing new product and market.
- Represented a conservation company in the initial rejection of a pollution control facility tax exemption for two buildings, each valued at \$1 million. The Hinshaw team diligently revived the review process, collaborating closely with the company and environmental consultants to develop comprehensive petitions submitted to the Illinois Environmental Protection Agency (IEPA). The team's efforts led to a favorable determination, classifying both facilities as fully exempt from real estate taxation. This victory resulted in significant financial savings for the company, amounting to thousands of dollars in real estate taxes for the facilities.
- Navigated several environmental and land use challenges for a large solar company. Notably, The Hinshaw team negotiated a subsequent owner agreement with the US EPA regarding a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) superfund site, enabling the client to develop a 10-acre solar facility on land that is subject to a consent decree mandating the remediation of hazardous materials below the surface. Additionally, the Hinshaw team assisted in obtaining approvals from two counties for large facility siting, overcoming initial rejections of zoning and building permits by local authorities.
- Represented Kankakee County at an Illinois Pollution Control Board hearing and successful appeal before the Illinois Third District Appellate Court by conducting oral argument and drafting a brief which resulted in defeating a municipality's effort to approve the siting of a landfill in the county, which violated an Illinois environmental statute designed to protect health, safety, and welfare.
- Secured a \$17.5 million judgment against the operator of a landfill on behalf of the City of Morris who owned land beneath the landfill and defeated an injunctive motion by the State of Illinois against the city related to the same landfill.
- Represented a Hinshaw client in a waste transfer station siting hearing in the Village of Round Lake resulting in the approval of the client's application and successful defense of an appeal to the Illinois Pollution Control Board and Illinois Second District Appellate Court, including the drafting of a brief and presentation of oral argument.
- Represented the largest Potentially Responsible Parties (PRP) of a large superfund site in a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) cost recovery action in federal court in Wisconsin.

- Defended and negotiated the successful resolution of a notice of violation issued by the Illinois Environmental Protection Agency (IEPA) against a hospital for alleged improper record keeping and disposal of pharmaceuticals without any penalty or judgment against the hospital.
- Represented a landfill company against hundreds of plaintiffs in an alleged nuisance claim related to odor, resolving at mediation without judgment against the company and entirely paid for by insurance proceeds.
- Argued to the Illinois Supreme Court on an insurance coverage issue and to the US Court of Appeals for the Seventh Circuit on an eminent domain issue.
- Defended a Rockford, Illinois, manufacturer against alleged environmental violations, resulting in the \$6 million remediation of a 150-year-old manufacturing facility. The case involved allegations of petroleum, heavy metals, and solvents contaminating a 14-acre site. Through strategic negotiations, the Hinshaw team compelled the property's former owner, a Fortune 500 company, to cover 100% of the \$6 million remediation costs and reimburse the client for all legal expenses and penalties. Concurrently, the Hinshaw team managed the agency enforcement action, which was resolved with a consent agreement that imposed a nominal penalty, also paid entirely by the prior owner. Following the successful remediation, the client was able to sell the company and the remediated site, realizing an impressive windfall profit.
- Represented a 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 a client in the successful purchase of approximately \$30 million in real estate including commercial buildings and parking structures and contracts with the lender.
- Represented a plaintiff client in a federal lawsuit against a pharmaceutical company and a physician for false statements inducing investment and violations of the Securities Exchange Act, acquiring a judgment of more than \$1.5 million after federal trial which was affirmed by the US Court of Appeals for the Seventh Circuit.
- Negotiated Clean Air Act and nuisance claims against a commercial business for alleged contamination of school district property resulting in cessation of offensive operations and remediation. · Coordinated an investigation and remediation of a 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 a foreclosing lender that acquired a property with an alleged leaking underground storage tank.
- Coordinated the phase one and phase two investigation of remediation of radiation-contaminated soils in an acquisition.
- Conducted environmental audits and the implementation of environmental management systems for hospitals.
- Coordinated environmental audit of adhesive film material manufacturing facility.
- Defeated an Illinois Environmental Protection Agency violation notice against a salvage company resulting in no judgment or civil penalty against the company.
- Represented the owner of commercial property in Nebraska federal court where the tenant alleged a violation of the exclusivity provisions of their lease. The decision was affirmed by the US Court of Appeals for the Eighth

Circuit.

- Represented the Will County Board at an Illinois Pollution Control Board and Illinois Third District Appellate Court, resulting in the affirmation of the decision of the county board granting the landfill siting application to Waste Management Inc. and determining that the county proceedings were fundamentally fair.
- Represented plaintiffs who, in a trial court motion, asserted that the US government and certain companies failed to adequately comply with the National Environmental Policy Act, resulting in an order that a finding of an automatic categorical exclusion by the General Services Administration of US 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. The representation involved conducting negotiations and drafting related settlement agreements and drafting wind energy conversion system ordinances for several governmental entities and participating in related local hearings.
- Represented numerous landowners regarding federal eminent domain actions for an underground natural gas pipeline.
- Represented a company in a claim by Potentially Responsible Parties (PRP) related to a Mig-Dewane landfill that is a Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) superfund site based upon DeMicromis defense.
- Negotiated and settled a claim brought by the US Environmental Protection Agency against a construction company for alleged Clean Air Act violations from dust with no financial penalty.
- Negotiated a notice of violation of the Clean Air Act brought by the US Environmental Protection Agency against a construction company by using a supplemental environmental project.
- Negotiated the resolution of an Illinois Environmental Protection Agency notice of violation against a construction company for an alleged failure to obtain a permit and air quality violations by an entry of compliance commitment agreement only with no penalty or court order.
- Represented a concrete, materials, and logistics solutions company in the purchase of real estate, assets, equipment, and intangible personal property. Related to the real estate and the business, the parties entered into restrictive covenants on certain real estate not acquired and entered into noncompete agreements. The seller provided financing of \$10 million.

Recognition

- Martindale-Hubbell, Distinguished® Peer Review Rating
- *Leading Lawyer*, Environmental Law
- Southern Illinois University School of Law, *Southern Illinois University Law Journal*, Managing Editor; Environmental Law Moot Court, Team Captain; Order of the Barristers

Credentials

Education

Southern Illinois University School of Law, JD, *cum laude*, 1992

Illinois State University, BS, 1988

Bar Admissions

Illinois

Court Admissions

US District Court for the Northern District of Illinois

Interests

Did you know...

For the past several years, Rick and his wife have traveled around the country watching their youngest son play baseball for his college team. Rick is also a fan of most Chicago sports teams.

When he's not working or traveling, Rick spends his free time outdoors with his family, kayaking, paddleboarding, biking, golfing, running, and skiing.

Thought Leadership

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 *Bourselan v. Aramco*,” 15 S.I.U.L.J. 645, 1991

Event

- Responding to Environmental Regulatory Uncertainty: What Businesses Need to Know to Stay Ahead and Profit, Apr 18, 2018

Hinshaw Alerts

- U.S. EPA Issues COVID-19 Enforcement Policy, Apr 6, 2020
- Illinois EPA Opens First Round of Funding for Projects Related to the VW Settlement, Sep 13, 2018
- New Illinois Act Establishes Comprehensive Regulatory Regime Governing “Fracking”, Jul 1, 2013

In The News

- Three Hinshaw Attorneys Co-author Chapter in Fourth Edition of Enterprise Risk Management for Health Care Handbook, Apr 2, 2024
- Rick Porter and Peggy Crane Author Environmental Law Compliance Chapter in Health Care ERM Handbook, Jan 24, 2017
- Richard Porter Quoted in Article Discussing Lawsuit Opposing Macon County (Illinois) Wind Farm, Dec 28, 2015
- Richard Porter Comments on Ruling That GSA Power Purchase Contract Is Subject to NEPA Review, May 26, 2015
- Richard Porter Comments on Ruling Against Northwest Illinois Wind Farm Developers, May 13, 2015

Press Release

- Hinshaw's Rockford Seminar Series, Oct 9, 2017

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