

Thomas D. Lupo

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He/Him

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About Tom

Tom has devoted four decades to representing business entities in complex environmental and commercial litigation. He handles Superfund/CERCLA, RCRA, and other federal and state enforcement matters, advises on environmental regulatory compliance, leads large-scale toxic tort litigation, and resolves employment disputes across 27 states. He regularly represents clients before the US Department of Justice, state attorneys general, and various governmental agencies, as well as in civil and commercial litigation.

Tom's clients range from multinational corporations to small and mid-sized businesses operating in diverse industries. In addition to his environmental and litigation work, he advises clients on workplace safety and health issues.

Tom's Affiliations

- American Bar Association, Section on Environment, Energy and Resources, Superfund and Cost Recovery Committee, Vice-Chair, 2017 – present; Superfund and Natural Resources Damages, Vice-Chair, 2015; Section of Litigation, Environmental Litigation Committee, Environment and Energy Litigation Subcommittee, Vice-Chair, 2017 – present; CERCLA Law Subcommittee, Co-Chair, 2013 – 2015; Environmental and Toxic Torts Committee, Vice-Chair, 1999 – 2003

Areas of Focus

Industries: Energy & Environment; Insurance Regulatory & Compliance

Experience

- Defended two corporations in the US District Court trials and related US Court of Appeals for the Eighth Circuit proceedings against a Department of Justice (DOJ) led, multi-seven-figure civil penalty and cost recovery action from 2013 to 2020. The cases involved numerous experts, corporate and fact witnesses, and substantial motion practice.
- Successfully reduced a major paint manufacturer's initial CERCLA liability allocation, as calculated by the US EPA, from a significant share to zero. This outcome was achieved through strategic cross-examination of the Milwaukee-area drum reclaimer facility manager and multiple Chicago route truck drivers, effectively discrediting the evidence linking the client to the contamination site and demonstrating the absence of any direct contribution to the hazardous waste disposal.
- Successfully defended a paint manufacturer in a toxic tort suit at a CERCLA site, resulting in a nuisance-value settlement in the Milwaukee area.
- Represented a major automotive systems manufacturer in central New York State, reducing the client's share of CERCLA costs from a high six-figure demand to an early de minimis cash-out by privately interviewing the owner of a 1970s waste oil reclaiming company.
- Led the defense of 18 mass toxic tort actions arising from PCB exposure at a transformer manufacturing facility in central Mississippi, reducing litigation risk for a manufacturer and its former corporate parent. The cases, filed in multiple state and federal jurisdictions, involved over 1,200 plaintiffs alleging personal injury, property damage, and diminished property value. Oversaw strategy and trial preparation, including removal practice, dispositive motions, Daubert challenges, and the presentation and cross-examination of more than 30 expert witnesses.
- Negotiated a settlement with zero penalty and reduced remedial action scope and cost in response to a seven-figure RCRA penalty groundwater enforcement demand on behalf of an Alabama-based aircraft refurbisher and government contractor.
- Represented a major automotive component systems manufacturer and negotiated within the existing PRP Group to reduce the client's participation share by two-thirds without invoking formal group-wide allocation procedures.
- Boldly opted out of de minimis settlement at a potential \$100+ million Superfund site, ultimately reducing the client's cost by more than 90 percent and deferring assessments.
- Served as criminal enforcement and environmental counsel to a prominent white-collar crime legal team defending the plant manager of an Indianapolis, Indiana battery reclaiming facility, among others. Involved in preparing defense expert opinion disclosures and testimony, cross-examining US government expert witnesses, and briefing Clean Water Act legal issues.
- Served as common litigation counsel charged with identifying and adding third-party defendants and litigating substantial contribution claims while also defending major paint manufacturers in United States' CERCLA cost recovery action.

- Represented a heavy equipment manufacturer in a Resource Conservation and Recovery Act (RCRA) citizen suit concerning underground storage tanks and associated environmental impacts. Through strategic motion practice, achieved removal of the tanks and negotiated a minimal settlement, effectively mitigating potential liabilities and ensuring compliance.
- Negotiated a favorable remedy and funded much of the site work by cashing out smaller parties while managing the PRP group's remedy and regulatory engagement with the Illinois EPA at an Illinois Superfund site.

Recognition

- *Leading Lawyers, Environmental Law; Toxic Torts Defense Law*
- Martindale-Hubbell, AV® Peer Review Rating
- *University of Notre Dame Law School, Thomas J. White Scholar; Journal of Law, Ethics, and Public Policy, Managing Editor*

Credentials

Education

University of Notre Dame Law School, JD, 1985

University of Notre Dame, BA, 1982

Bar Admissions

Illinois

Court Admissions

US Court of Appeals for the Armed Forces

US Court of Appeals for the Seventh Circuit

US Court of Appeals for the Eighth Circuit

US District Court for the Central District of Illinois

US District Court for the Northern District of Illinois

US District Court for the Eastern District of Wisconsin

Interests

Did you know...

Tom enjoys golf, watching sports, travel, reading, and history.

Community/Civic Activities

- Wake Forest University, Parents Council, Winston-Salem, North Carolina, Past Member

- University of Notre Dame National/International Alumni Board, Past Member

Thought Leadership

Presentations

Tom frequently speaks on topics pertaining to his areas of practice to various professional groups.

Events

- Sea Level Rise & Climate Change Conference [Cancelled], Mar 31, 2020
- Third Annual Sea Level Rise & Climate Change Conference Digging for Sea Level Rise Solutions: The Economic Effects of Sea Level Rise on Corporate Decision-Making, Apr 4, 2019

Hinshaw Alert

- U.S. EPA Publishes Final Rule Updating the Phase I Environmental Site Assessment Standard Under CERCLA, May 30, 2023

In The News

- Thomas Lupo Discusses Court Decision Addressing Reversal of Decision to Uphold Divisibility Defense, Dec 24, 2015
- Thomas Lupo Discuss Court Decision Addressing U.S. EPA's Ability to Seek Court Order for Access and Remediation, Dec 10, 2015
- Thomas Lupo and Dana Mehlman Discuss Court Decision Addressing Document Privilege Protections Involving Environmental Consultants, Dec 7, 2015

Press Release

- Hinshaw Successfully Stages Third Annual Climate Change and Sea Level Rise Conference, Apr 9, 2019