

E. Michael Thomas

Of Counsel

Michael Thomas is an accomplished environmental and land use attorney with high-level experience in both government service and private practice. A former U.S. Environmental Protection Agency enforcement attorney, he focuses his work on assisting clients with Superfund, brownfields and other hazardous waste issues, and he regularly works on compliance, permitting, enforcement defense and other matters in these areas. In addition to representing clients, Michael also regularly serves as an expert witness in environmental litigation matters.

Michael also has extensive experience in Superfund liability allocation processes including divisibility of harm issues as a third party neutral, an expert witness, and counsel assisting clients with strategic planning for allocating responsibility in the Superfund site context as well as in mergers and acquisitions. He has led and participated in numerous multi-disciplinary teams conducting complex environmental compliance, permitting, liability allocation and litigation projects that have involved collaboration, mediation and more formal dispute resolution processes among hundreds of adversaries, teams of citizen groups, environmental engineers, scientists and consulting firms.

In his land use and zoning practice, Michael represents businesses and individuals in real estate, local affairs and permitting, including wetlands protection, stormwater, groundwater, public drinking water systems and surface water discharge issues.

Prior to joining Preti Flaherty in an Of Counsel status, Michael operated a private legal practice focused on environmental counseling (which practice will continue) and had worked as a partner in two international law firms. Before entering private practice, he held several senior legal roles at the EPA, including serving as the deputy lead Headquarters attorney managing the agency's hazardous waste enforcement efforts under RCRA and the Senior Regional Counsel Attorney managing Superfund enforcement sites in the New England region.

Practice Areas

- Environmental
- Environmental Litigation
- Land Use & Permitting

Education

- Massachusetts Institute of Technology (1975)
 - S.B. and M.C.P. in planning, operations research
- Yale Law School (J.D., 1981)



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Admissions

- Massachusetts
- U.S. Court of Appeals, First Circuit

Professional Affiliations

- National Roster of Environmental Dispute Resolution and Consensus Building Professionals, U.S. Institute of Environmental Conflict Resolution, Member (2003 - Present)

Honors & Awards

- Martindale-Hubbell® AV Preeminent™ Peer Review Rating
- Top-Rated Land Use and Zoning Lawyer by *American Lawyer*
- U.S. EPA Gold Medal for outstanding and precedential Superfund case management
- Editor, *Yale Studies in World Public Order*, journal of international law and policy (1981)
- Yale School of Organization and Management, Teaching Assistant, Professor Geoffrey Hazard (1981)
- Thomas I. Emerson Prize, Best Yale Legislative Services Project, Hazardous Waste Liability Act for Massachusetts (became M.G.L. C. 21E) (1980)
- Editor, *Yale Law Journal*, Note, Tort Actions for Cancer; 90 Yale L.J. 840 (1980)
- National Science Foundation Graduate Fellowship, MIT (1974)

Civic Involvement

- Certified Yoga Teacher, CYT-200
- Trauma Center, Trauma-Sensitive Yoga Certification (certification pending)
- Warriors at Ease Certified, Yoga and Mediation Training to Military Community

Projects

- Precedent-setting results in complex multi-party litigation and settlement, including:
 - *United States v. Cannons Engineering* (1st Cir. 1989)
 - *Caldwell Trucking v. Rexon* (3rd Cir. 2005)
- Selected as lead allocator for Cooperating Parties Group at Lower Passaic River Study Area.
- Mediated conflicts between government and 60+ potentially responsible parties for performance of \$120 million remedy at Fike/Artel Superfund site in WV
- Assist clients and PRP groups in favorable allocations of liability in environmental disputes in AK, CA, MN, NJ, NY, MA, NH, PA, RI, TN, VT, WV and WI
- Represented clients:
 - Housatonic River PCB sediment site in MA and CT
 - Lower Fox River PCB sediment site in WI
 - Logan Airport remediation in Boston
 - Miami International Airport remediation
 - Scores of other Superfund sites and RCRA facilities involved in corrective action, regulatory and cleanup issues

- Expert witness:
 - Superfund site allocation with successive steel plant owners, operators
 - Allocation of contamination at municipal airport used historically for military purposes
 - Air contaminants on impacted neighborhoods impacted by multiple facilities
 - Allocation between the United States and contractors at government-owned contractor operated air force base
 - Allocation of liability for contamination at Cold War Distant Early Warning site
 - Divisibility of harm assertions based on geographical, waste type, and successor owner/operator and generator temporal distinctions
- Deemed by Lawyers Weekly “most helpful expert” denying \$25M environmental indemnification provision in purchase share agreement (1/2/2008)
- Prepared expert reports on regulation of rail transport of hazardous material, air regulation of lead emissions from smelters and during transportation in collaboration with Gradient Corporation
- Partnered with Camp, Dresser & McKee and Conservation Law Foundations Ventures, Inc. to manage public and regulatory stakeholder involvement in closure and decommissioning of nuclear power plants
- Developed evaluation licenses, web portal agreements, manufacturing license, manufacturing agreements, agreements for technology development, consulting services, website development and maintenance, preferred provider, non-disclosure agreements and handled environmental and intellectual property issues in mergers and acquisitions
- Negotiated mainframe IT outsourcing contract for major semiconductor manufacturer
- Represented citizen groups in precedent-setting appeal of municipal sewage treatment plant permits, in citizen suit actions to enforce water quality standards, in challenges to waterfront developers’ compliance with public access requirements and in challenges to landfill and groundwater discharge permits