

E. MICHAEL THOMAS
ATTORNEY AT LAW

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Successful allocation consultant, mediator and expert witness in major Superfund cases; Accomplished environmental, land use and real estate attorney; Counsel, team leader, team member and third party neutral in regulatory, litigation and dispute resolution

PRACTICE AREAS

- ❑ **ENVIRONMENTAL & SUPERFUND:** Counseling, risk management and governmental relations in federal, state and local Superfund, environmental, utilities and brownfields, supporting defense, liability allocation, compliance, permitting and strategic planning
- ❑ **ALLOCATION CONSULTANT, MEDIATOR & EXPERT WITNESS:** Assist clients, PRP groups and agencies as mediator, third party neutral, allocation consultant and expert witness developing favorable Superfund allocations and settlements; Successful and effective testifying and consulting expert concerning all aspects of Superfund liability allocation, notably riverine and estuarine sediment contamination, divisibility of harm, geographical, waste type, successor owner/operator and risk-based allocation methodologies
- ❑ **ZONING, LAND USE & REAL ESTATE:** Representation and counseling in zoning, land use, brownfields, real estate, local affairs and permitting, including wetlands protection, stormwater, groundwater, public drinking water systems and surface water discharge

EDUCATION

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

STRENGTHS

- ❑ **LEADERSHIP:** Lead common counsel for potentially responsible parties' group in Superfund cases; Lead dispute resolutions among scores of adverse parties, including mediations among hundreds of parties; EPA Gold Medal for Superfund case management; Deputy director of national hazardous waste enforcement program
- ❑ **COMMUNICATION:** Excellent written and oral communication skills; Expert consultation, reports and testimony; Advise top management in strategic decision making
- ❑ **CLIENT SERVICE:** Manage environmental programs, regulatory compliance, permitting, litigation and attorneys for strategic project results; Negotiate complex environmental settlements, real estate contracts, and regulatory agreements
- ❑ **COLLABORATION:** Lead and participate in multi-disciplinary teams of national experts conducting complex environmental projects, dispute resolution among hundreds of adversaries in environmental compliance, permitting and litigation

EXPERIENCE

- ❑ **OF COUNSEL, PRETI FLAHERTY BELIVEAU & PACHIOS LLC:** Superfund allocation consultant at Lower Passaic River Study Area Superfund site, NJ, consulting allocation expert witness at New England Superfund site, testifying allocation expert at county landfill, CA
- ❑ **SOLO LAW PRACTICE, E. MICHAEL THOMAS, ATTORNEY AT LAW:** Environmental counseling and representation, litigation support and expert witness, zoning, land use, real estate counseling and representation, 2002 – present
- ❑ **ALLOCATION CONSULTANT, MEDIATOR & TESTIFYING EXPERT WITNESS:** Complex multi-party environmental dispute resolution, 1994 to present
- ❑ **CHAIR, TOWN OF WAYLAND ZONING BOARD OF APPEALS:** 2006 to 2015
- ❑ **PARTNER, MCDERMOTT, WILL & EMERY:** Corporate, e-Commerce and Regulatory Practice Groups; Clients in biotechnology, medical devices, health care, pharmaceuticals, finance, networking, software, aircraft support services, paper manufacturing and utilities; Environmental, intellectual property, regulatory, merger and acquisition and joint venture transactions and technology risk management, 1996 to 2002
- ❑ **PARTNER, GOODWIN, PROCTER & HOAR:** Environmental practice in hazardous waste regulation, Superfund cleanup and settlement, governmental relations, 1991 to 1996
- ❑ **DEPUTY ASSISTANT RCRA ENFORCEMENT COUNSEL, U.S. EPA:** Managed national hazardous waste enforcement program; **SPECIAL ASSISTANT TO GENERAL COUNSEL, U.S. EPA:** Advised legislative, regulatory, litigation and political affairs; **SENIOR ASSISTANT REGIONAL COUNSEL, U.S. EPA:** Managed Region's Superfund attorneys; Counsel for major New England Sites, 1981 to 1990

PROJECTS

- ❑ **LIABILITY ALLOCATION:**
 - Assisted clients and PRP groups in favorable allocations of liability in environmental disputes in AK, CA, MN, NJ, NY, MA, NH, PA, TN, VT, WV, WI and others
- ❑ **COURT-SPONSORED MEDIATION:**
 - Superfund contribution action with 700+ parties in TX
 - Between government and 60+ potentially responsible parties for performance of \$120 million remedy at Fike/Artel Superfund site in WV
- ❑ **CLIENT REPRESENTATION:**
 - 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:**
 - Allocation of county landfill cleanup among contributing municipalities, transporters and landfill owner/operators
 - 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

○ OTHER PROJECTS:

- ❑ Deemed by *Lawyers Weekly* “most helpful expert” denying \$25m environmental indemnification provision in purchase share agreement
- ❑ 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
- ❑ 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

DISTINCTIONS

- ❑ 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)
- ❑ AV Preeminent Peer Rating by Martindale-Hubbell (2010 - present)
- ❑ Top-Rated Land Use and Zoning Lawyer by American Lawyer (2014)
- ❑ Gold Medal, U.S. Environmental Protection Agency, highest agency honor, for outstanding and precedential Superfund case management (1988)
- ❑ Editor, *Yale Law Journal*, Note, Tort Actions for Cancer; 90 Yale L.J. 840 (1980)
- ❑ Thomas I. Emerson Prize, Best Yale Legislative Services Project, Hazardous Waste Liability Act for Massachusetts (became M.G.L. C. 21E)(1980)
- ❑ Teaching Assistant, Yale School of Organization and Management, Professor Geoffrey Hazard (1981)
- ❑ Editor, *Yale Studies in World Public Order*, journal of international law and policy (1981)
- ❑ National Science Foundation Graduate Fellowship, MIT (1974)

CERTIFICATIONS

- ❑ Admitted to Massachusetts Bar (1981)
- ❑ Member, National Roster of Environmental Dispute Resolution and Consensus Building Professionals, U.S. Institute of Environmental Conflict Resolution (2003)
- ❑ Admitted to First Circuit Court of Appeals (2005)
- ❑ Certified Yoga Alliance Teacher, CYT-200 (2012)
- ❑ Certified by Warriors at Ease for Teaching Yoga and Meditation to the Military Community, (2014)
- ❑ Certified Justice Resource Institute Trauma Center Trauma-Sensitive Yoga teaching (2015)