PRACTICE

# LITIGATION

Appeals

## PARTNERS

CHRISTOPHER E. KOZAK
SEAN M. HIRSCHTEN
AMY E. ROMIG
THAO NGUYEN
JOHN D. MORIARTY
GREGORY M. GOTWALD
JONATHAN P. EMENHISER
DANIEL P. CORY
JEFFREY D. CLAFLIN
CHRISTOPHER J. BRAUN
TONYA J. BOND
ANDREA K. TOWNSEND
JOANNE R. SOMMERS
RYAN T. LEAGRE
COLIN E. CONNOR
JEFFREY D. FEATHERSTUN

## ASSOCIATES

CHRISTOPHER E. KOZAK

## OF COUNSEL

PETER M. RACHER
GEORGE M. PLEWS
JEFFREY A. TOWNSEND

## OVERVIEW

Our litigation team is well known for its successful appellate work. Our appellate practice has helped to shape the law in many areas, including environmental law and insurance coverage. Our emphasis on thorough and persuasive written work product and effective oral advocacy has secured numerous favorable opinions for our clients. Our attorneys are familiar with all aspects of litigation in state and federal appellate courts and are ready help whether or not we were counsel in the underlying litigation.

## EXPERIENCE

- *Lindsey v. DeGroot*, 898 N.E.2d 1251 (Ind. Ct. App. 2009) (Determined Indiana's Right to Farm Act was constitutional and applied to bar the nuisance claim of a neighbor against DeGroot Dairy).
- *The Sierra Club v. Gates*, 499 F. Supp. 2d 1101 (S.D. Ind. 2007) (successfully defended action which sought to enjoin continuing shipments of the product of the hydrolosis of the chemical warfare agent VX from a depot in Indiana to Veolia Environmental Service's incineration facility in Texas)
- *Pound v. Airosol Co., Inc.,* 316 F.Supp.2d 1079 (D. Kan. 2004) and 498 F.3D 1089 (10th Cir. 2007) (obtained summary judgment holding competitor's product, which contained ozone-depleting substances violated the Clean Air Act and establishing a competitor's right in the Tenth Circuit to recover attorney fees in bringing a successful citizen's suit under the Clean Air Act)
- *Raybestos Prods. Co. v. Indiana Dept. Envtl. Mgmt.*, Cause No. 49Dl2-0209-PL-001553 (Marion County Superior Court—summary judgment July 6, 2004, June 12, 2006 judgment ($11.6 million) & October 30, 2006 ($4.7 million), (obtained a $16 million judgment against the Indiana Department of Environmental Management for

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F. RONALDS ("RON") WALKER
CHRISTINE C. H. PLEWS
ANGELA M. GREEN

reneging on an agreed order for a risk-based PCB cleanup, reversed on appeal)

- *Port Comm'n v. Consolidated Grain & Barge Co.*, 701 N.E.2d 882 (Ind. Ct. App. 1998) (preliminary injunction regarding use of rail and port facilities)
- *Natural Gas Odorizing, Inc. v. Downs*, 685 N.E.2d 155 (Ind. Ct. App. 1997) (duty to warn gas users)
- *Town of Montezuma v. Downs*, 685 N.E.2d 108 (Ind. Ct. App. 1997) (negligence per se claims involving a gas explosion)

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