

PRACTICE

LITIGATION

Real Estate & Construction

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OVERVIEW

We have significant experience with construction defects, architectural errors and omissions, land use and stigma damages claims. We have successfully represented owners, contractors, agricultural cooperatives, developers, landfill operators and neighbors. We have also served as counsel in multi-plaintiff and class-action construction claims. Our clients benefit with our experience because this area of focus dovetails with our insurance-recovery practice, as insurance claims are nearly always implicated.

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

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judgment against the Indiana Department of Environmental Management for 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)

[Include significant environmental and insurance coverage cases?]

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