



Michael R. Blumenthal

OF COUNSEL

Michael's practice focuses on environmental compliance and counseling, enforcement defense, multimedia environmental audits, permitting issues, and environmental litigation between private parties and the government. As a former Ohio Assistant Attorney General, his knowledge is regularly enlisted to craft regulations pertaining to environmental safety.

Michael has worked extensively in the areas of solid and hazardous wastes, petroleum underground storage tanks, NPDES permits, and environmental investigation/remediation. He routinely assists clients with due diligence in business and commercial real estate transactions. This includes representing manufacturers, energy providers, and developers in negotiating environmental, air, water, and hazardous waste permits with state and federal governments. He oversees emergency response and removal actions and develops long-term cleanup agreements with both state and federal governments to bring sites to closure or "No Further Action" (NFA) status. Michael represents clients in multimedia audits, environmental audit privileges, and environmental issues related to real estate transactions, storm water regulations and underground storage tanks.

Michael assists both private and public agency clients with the entire National Environmental Policy Act (NEPA) process, which applies to federal approvals, by guiding them from initial planning, federal permit applications, and entitlements through NEPA noticing, document preparation and circulation, public review, regulatory compliance, and requirements specific to each federal agency involved. He defends lawsuits challenging the environmental impact statements brought by project opponents to challenge the approvals granted upon completion of the environmental reviews process.

He routinely represents developers in site acquisition and redevelopment of brownfield properties, ranging from overseeing environmental due diligence, to developing acceptable cleanup standards with the EPA and OEPA in obtaining site closure letters (NFA's) and covenants not-to-sue. He also counsels municipalities on obtaining grant money and low-interest loans from state and federal brownfield programs.

Michael routinely prosecutes and defends cost recovery, Citizen Suits, common law, and injunctive relief claims brought under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA/Superfund); the Resource Conservation and Recovery Act (RCRA); the Clean Air Act (CAA) and the Clean Water Act (CWA). He defends environmental enforcement actions, Notices of Violations (NOVs), and Information Requests initiated by the state and federal government for purported violations of U.S. Environmental Protection Agency (EPA), Ohio EPA (OEPA), and Ohio Bureau of Underground Storage Tank Regulations (BUSTR).

Michael is also a member of the White Collar Government Investigation Group, in which he represents clients before the United States Department of Justice and Ohio EPA for environmental crimes related to violations of the CWA, CAA, and RCRA.

Currently, Michael is working with Ohio EPA in rolling out a certification program for water quality professionals for collecting data to assess streams and categorize wetlands, in support of applications for Section 401 Water Quality Certifications and Isolated Wetland Permits. He is actively involved in seeking "common sense" and practical solutions related to emerging contaminants ("forever chemicals"). Michael is participating on a variety of rulemaking committees representing the interests of private industry.

Notably, Michael is a former Ohio Assistant Attorney General in its Environmental Enforcement Section. In that role, his primary responsibility was to enforce state and federal EPA regulations. While with the Attorney General's Office, Michael also helped launch and develop Ohio's Underground Storage Tank Program and was one of the principal authors of BUSTR. He also developed eligibility and claim guidelines for Ohio's Petroleum Underground Storage Tank Release Compensation Board (PUSTRCB) regulations, relating to payment of state funds associated with underground storage tanks. He routinely participates on various OEPA and BUSTR

Service Areas

Asbestos and Toxic Torts
Commercial Litigation
Education Law
Environmental
White Collar/Government
Investigations Group

Education

Cleveland-Marshall College
of Law, J.D., 1987
The Ohio State University,
B.S.

Admissions

Ohio
U.S. Supreme Court
U.S. Court of Appeals for the
Sixth Circuit
U.S. District Court for the
Southern District of Ohio
U.S. District Court for the
Northern District of Ohio

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* indicates primary office

rulemaking committees.

Michael previously served as a founding partner of Waxman Blumenthal in Cleveland. He is a member of the board of trustees of both Stella Maris, Inc. and Fresh Start, Inc., nonprofit corporations focused on providing alcohol and chemical dependency treatment and mental health services to the indigent and homeless.

Reported Decisions

- *State ex rel. Petro v. Mercomp, Inc., et al.* 2006-Ohio-2729 (Eighth District 2006).
- *Amoco Oil Co. v. Petroleum Underground Storage Tank Release Compensation Board*, 89 Ohio St. 3d 477 (2000).
- *Davis v. Sun Oil Company*, 148 F.3d 606 (6th Cir. 1998), cert. den 525 U.S. 1018(1999).
- *Sun Co. Inc. v. Petroleum Underground Storage Tank Release Compensation Board*, 133 Ohio App.3d 499 (1999).
- *United States of America v. Glidden Company*, 3 F. Supp. 2d 823 (1997).
- *Davis v. Sun Oil Company*, 953 F. Supp. 890 (1996).
- *Davis v. Sun Oil Company*, 929 F. Supp. 1077 (1996).
- *Davis v. Sun Refining & Marketing Co.*, 109 Ohio App.3d 42 (1996).
- *R & R Service v. Ohio Petroleum Underground Storage Tank Release Compensation Board*, 1999 WL 682587 (Ohio App. 11 Dist. 1999).
- *Sines & Sons, Inc. v. Shell Oil Co.*, 1998 WL 683938 (Ohio App. 11 Dist. 1998).

Relevant Experience

- Representing industrial facilities, public bodies, lenders, and real estate developers involving the negotiating of cleanup agreements with U.S. EPA, OEPA, and the U.S. Department of Justice (DOJ).
- Assisting clients with the conduct of emergency removal actions; completion of longer-term remedial investigations and feasibility studies, hazardous waste corrective actions, and demonstrating or challenging consistency with the National Contingency Plan; and selection of remedial action requirements.
- Assisted clients in accurately evaluating the type and level of emissions associated with the foundry and refining industry.
- Counseled a major municipal waste landfill company on all aspects of landfill NSPS compliance requirements, including permitting standards, compliance obligations, reporting and recordkeeping standards, and landfill gas emission control programs.
- Assisted clients in developing air regulatory programs for steel manufacturers, petroleum refiners and natural gas operations, including single source aggregation, New Source Performance Standards (Subpart OOOO), NSR and state emission reporting and permitting requirements.
- Counseled commercial and industrial clients on a broad range of waste generation and handling issues, including proper classification of wastes, compliance with generator requirements, evaluation of permitting requirements and waste transportation and disposal issues.
- Represented national builders in responding to information requests from U.S. Environmental Protection Agency (EPA), regarding compliance with the EPA's National Pollutant Discharge Elimination System (NPDES) Construction Stormwater Permits, pursuant to Section 308 of the Clean Water Act.
- Defending companies and individuals in civil and criminal enforcement actions brought by the U.S. EPA and other state regulatory agencies.
- Defending and prosecuting cost recovery actions under federal Superfund and state Brownfield programs.
- Representing clients in matters pertaining to Ohio's Underground Storage Tank Enforcement Program ("BUSTR") and Claims Reimbursement Program ("PUSTR").
- Representing Tier I PRPs on NPL Superfund sites.
- Representing clients in environmental insurance recovery litigation.
- Prosecuting and defending clients in environmental mass toxic tort litigation.
- Defending environmental testing laboratories in criminal and civil prosecutions brought by DOJ and U.S. EPA.
- Representing demolition and asbestos contractors for alleged violations of the asbestos and

the Clean Air Act (CAA) violations.

Professional Affiliations

- American Bar Association, Sections of Natural Resources, Energy, and Environmental Law and Real Property, Probate, and Trust Law
- International Council of Shopping Centers
- Great Lakes Petroleum Retailers and Allied Trades Association
- Ohio Manufacturers Association
- Bureau of Underground Storage Tank Regulations Rulemaking Advisory Committee, 2003–2004
- Dr. Bob's House Board Trustee and Legal Counsel, 2008 to date
- Ohio EPA Groundwater Rule Advisory Committee for Ohio's Brownfield Program, 2005
- Ohio Petroleum Marketers and Convenience Store Association Legal Counsel – Overseeing BUSTR's five-year rule revision process on behalf of petroleum marketers

Honors

- *Martindale-Hubbell* AV® Preeminent™ Peer Review Rated Lawyer
- *Ohio Super Lawyers*, Environmental Law

Community and Other Activities

- Stella Maris, Inc., Board of Trustees, 2003 to date
- Fresh Start, Inc., Board of Trustees, 2005 to date

Recent Publications

- September 19, 2019 [IRS Requests Comments on Form 1098-F – Should Defendants in Environmental Enforcement Actions Care?](#)
For many years, the Internal Revenue Code (Code) has denied a deduction for fines or penalties paid to a government for the violation of any law. Now, effective for amounts paid or incurred on or after December 22, 2017, no deduction is allowed (with certain exceptions) for amounts paid in relation to the violation of a law or investigation into the potential violation of a law, if a government (or similar entity) is a complainant or investigator with respect to the violation or potential violation.
McGlinchey Tax & Environmental Alert
- January 26, 2018 [SCOTUS Issues Opinion Holding That Lawsuits Challenging "Waters of the United States Rule" Must be Filed in Federal District Courts](#)
On Monday, the United States Supreme Court, in a decision of specific import to real estate developers and others who seek wetlands and other discharge permits, held that the appropriate jurisdiction for challenges to the Obama-era "Waters of the United States Rule" (the "Rule") are Federal district courts, rather than Federal circuit courts of appeal.
McGlinchey Environmental Alert
- 1993–1995 [The Underground Storage Tank Digest](#)
Legal Columnist
Maxicom Publications
- 1994 [The Underground Storage Tank Manual](#)
Co-Author
Hemisphere Corporation
- 1992 [The Petroleum Underground Storage Tank Release Compensation Boards Administrative Regulations \(Ohio Petro Board\)](#)
Anderson Publishing Company

1990 [The Bureau of Underground Storage Tank Administrative Regulations \(BUSTR\)](#)
Contributing Author
Anderson Publishing Company

News Results

June 14, 2017 [Michael Blumenthal and David Waxman Join McGlinchey Stafford's Cleveland Office](#)
McGlinchey News Release