



Stephen R. Berlin

PARTNER

1001 West Fourth Street
Winston-Salem, NC, 27101-2400
USA
t +1 336.607.7304
f +1 336.734.2614

Sberlin@kilpatricktownsend.com

Services

Litigation; Environmental & Land Use; Environmental Litigation

Stephen Berlin has significant experience in several areas of environmental law, including environmental litigation, business transactions involving environmental issues and environmental compliance matters. Since joining the firm, he has worked in most areas of environmental litigation, both in federal and state courts with an emphasis on private environmental costs recovery actions and representations of potentially responsible parties at Superfund sites and RCRA issues. Mr. Berlin has handled matters both at the trial and appellate levels in both federal and state courts. He has handled numerous matters involving plaintiff's claims of injury caused by contamination.

Mr. Berlin has been lead counsel for some of the largest Brownfields projects in the Southeast U.S. In recent years, he has litigated toxic tort, Resource Conservation and Recovery Act (RCRA), and Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) cases in all the district courts of North and South Carolina and successfully argued a case involving the interpretation of CERCLA to the Fourth Circuit Court of Appeals. During the course of this career, he has acted as lead environmental counsel for several multi-million dollar business transactions involving manufacturing concerns throughout the United States.

Mr. Berlin was recognized in *The Best Lawyers in America*[®] for Environmental Law in 2013 and the five years immediately preceding. He has also been recognized in the 2013 and the four years immediately preceding editions of *Chambers USA: America's Leading Lawyers for Business* and named to *Business North Carolina's* 2010, 2012 and 2013 "Legal Elite" list. He was recognized among the Triad's "Most Influential" professional executives for 2010, 2011 and 2012 by the *Triad Business Journal*. He has been recognized as a North Carolina "Super Lawyer" by *SuperLawyers* magazine for Environmental Litigation and Land Use/Zoning in 2010 and Environmental Law in 2010, 2012 and 2013 and recognized in *The International Who's Who of Business Lawyers* for 2010 and 2011. He is AV[®] rated by Martindale-Hubbell.*

*CV, BV, and AV are registered certification marks of Reed Elsevier Properties Inc., used in accordance with the Martindale-Hubbell certification procedure's standards and policies.

Experience Highlights

Stratford Metal Finishing v. NC Dept of Environment Health and Natural Resources, Division of Waste Management

Represented Stratford Metal Finishing Inc., an electroplating company, regarding Resource Conservation and Recovery Act (RCRA) hazardous waste issues in negotiations and litigation with the North Carolina Department of Environment and Natural Resources and the U.S. Environmental Protection Agency resulting in a large reduction of fines against the client company.

Hazardous waste and Superfund defense for subsidiary companies of a furniture manufacturer

Represented subsidiary companies of a furniture manufacturer in a large group of de micromis and de minimis parties regarding hazardous waste disposal and Superfund issues at a bankrupt waste disposal site.

Environmental litigation for yarn manufacturing supplier

The firm served as lead counsel for defendant, a supplier of spinning accessories throughout the yarn manufacturing sector of the textile industry, in an environmental litigation case brought under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and various state claims. Successfully obtained summary judgment on behalf of defendant, totally dismissing them from the case.

Sale of business for supplier of custom machine parts

Represented a long-established supplier of seals, O-rings and other custom machine parts in connection with the sale of its business to a UK-based public company.

Environmental complex business litigation for paper manufacturing company

The firm serves as lead counsel on behalf of a paper manufacturing company in environmental complex business litigation regarding a liability dispute associated with the historic mercury contamination and the resulting remediation of the property. Case pending.

Environmental litigation involving migration of off-site contamination

The firm served as lead counsel for a retail building material supplies and distribution company, in an environmental litigation case regarding property and business damages due to migration of off-site contamination onto the company's property.

Environmental regulatory advice for supply chain solutions provider

Representing a supply chain solutions provider regarding environmental regulatory permitting and matters associated with air emissions, hazardous waste, stormwater, waste water, and hazardous materials.

Acquisition of textile plant and environmental matters for construction company

Represented construction company with real property acquisition, site environmental assessment and remediation issues, and negotiation and implementation of a Brownfields Agreement with the State of North Carolina. The subject property was initially the site of a textile manufacturing plant located on approximately 36 acres. The plant had been closed and the entire site was sold to our client. The property was then redeveloped for commercial/mixed retail uses including Circuit City and Costco.

Rose Acre Farms Inc. v. North Carolina Department of Environment and Natural Resources, Division of Water Quality

Rose Acre Farms, Inc. retained us in a water quality permitting dispute with the North Carolina Department of Environment and Natural Resources resulting in successful negotiations to obtain the necessary operating permits.

Brownfields agreement for Wake Forest University

Represent property developer, Wake Forest University, in a major research park's negotiations with the North Carolina Department of Environment and Natural Resources to obtain a Brownfields Agreement for property redevelopment. As a result of the negotiations, the property developer was permitted to redevelop the property as the Brownfields process unfolded instead of upon conclusion of the process. We continue to report annual activity for this matter on an on-going basis.

United States of America et al. v. Wachovia Bank and Trust Company, N.A.

The firm served as lead counsel on behalf of third party defendant, Achieve Bank N.A., and successfully argued the first reported case before the U.S. Fourth Circuit Court of Appeals regarding the security interest holder exemption from liability for contribution under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA).

Implementation of Brownfields Agreement for Kim's Greensboro Real Estate, LLC

Represented Kim's Greensboro Real Estate, LLC in the redevelopment of property that was the former site of a manufacturing plant for general commercial use as an international marketplace for a variety of ethnic foods and products. The firm assisted Kim's Greensboro Real Estate, LLC with site environmental assessment and remediation issues, and negotiation and implementation of a Brownfields Agreement with the State of North Carolina.

Brownfields Assessment and Revolving Loan Fund Grant counsel to municipality

Represented a North Carolina city in writing, obtaining, and implementing its first Brownfields Assessment Grant and its first Brownfields Revolving Loan Fund Grant from the U.S. Environmental Protection Agency.

Federal Clean Water Act litigation for Krispy Kreme Doughnut Corporation

Served as lead counsel for Krispy Kreme Doughnut Corporation in a case that arose from allegations by Fairfax County, Virginia that waste water discharge from a Krispy Kreme Doughnut Corporation doughnut manufacturing plant in Lorton, Fairfax County, Virginia damaged the County's sewer system. Krispy Kreme responded that the county operated its sewer system despite faulty design and construction, and with knowledge that the sewage would become stagnant over time, thereby creating conditions that caused the failure of its system. This was a major Federal Clean Water Act case which was favorably settled for our client.

Brownfields Agreement for property redevelopment for clothing manufacturer

Represented manufacturer as the developer in negotiations with the NC Department of Environment and Natural Resources to obtain a Brownfields Agreement for property redevelopment. This was the first time the State of North Carolina had allowed the property owner to be the developer of a Brownfields site with liability protection.

Counsel for environmental related issues in North Carolina city and county

Represented city and county in North Carolina on various environmental matters, including the expansion of existing landfills, work issues concerning obtaining water from a local river, and various Brownfields matters.

*Experience gained by attorney prior to joining Kilpatrick Townsend

Publications, Articles and Speaking Engagements

Brownfields Redevelopment Helps Environment, Economy
Triad Business News, June 09, 2000

Environmental Contamination Not the End of the Road
Business Life Magazine, May 01, 2000

Brownfields and Historic Properties in Downtown Development
Kilpatrick Stockton LLP, July 01, 1998

Professional & Community Activities

Chair Development Committee of Winston-Salem Children's Museum

Wake Forest University School of Law, Adjunct Professor and coach of the National Trial Court Team

Forsyth County Bar Association, Past President (2003)

Wake Forest Law School Board of Visitors

Vice Chair of Arts Council Board

Chair of Winston-Salem Business Inc.

Past Chair of Enrichment Center Board

Education

Wake Forest University School of Law, J.D. (1984)
cum laude

Wake Forest University, B.A. (1981)
cum laude, Phi Beta Kappa

Bar Admissions

North Carolina (1984)

Clerkships

U.S. District Court for the Middle District of North Carolina — Chief Judge Hiram H. Ward