

# Edward Roggenkamp

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Ed Roggenkamp is a seasoned litigator focused on resolving complex environmental matters. Ed uses his skills as a former professional actor and teacher to help his clients win environmental cases, by explaining complex technical concepts so that they are easy to understand, and crafting a compelling narrative for the judge or jury. His litigation practice has included cost recovery actions under the Comprehensive Environmental Response, Compensation and Liability Act, toxic tort claims, challenges to environmental impact reviews under NEPA and its state equivalents, and enforcement actions and citizen suits under the Clean Air Act, Clean Water Act, Resource Conservation and Recovery Act, and other environmental statutes. He has also defended clients in both formal and informal enforcement actions by the federal EPA and state and local regulators, and spent several years as the primary editor of the climate change and Clean Air Act section of a legal treatise on environmental enforcement.

Ed advises clients on the environmental aspects of corporate transactions and real estate development, such as pre-purchase environmental due diligence and permitting, contractual indemnity provisions, hazardous waste remediation, and post-transaction environmental compliance. He has advised on numerous transactions involving the energy sector, including environmental due diligence of operating onshore wind farms and proposed offshore wind development on the East Coast, negotiation of power purchase agreements for utility-scale solar photovoltaic power plants, purchases and sales of fossil-fuel-fired power plants, and negotiation of measures to mitigate wildlife impacts from electric transmission lines. His litigation experience allows him to understand and minimize environmental risk for his transactional clients.

Ed has worked extensively with technical and scientific experts to understand and remediate sites contaminated by historic industrial operations including manufactured gas plants, oil refineries, and manufacturers of various products including automobiles, pharmaceuticals, textiles, and dyes. In the litigation context, this has included both affirmative and defensive work with environmental experts such as engineers and toxicologists, and non-environmental experts such as property appraisers and commercial leasing experts. Outside of litigation, Ed has worked alongside environmental engineers to guide the remediation of contaminated properties and advise on the management of coal combustion residuals. By engaging with environmental professionals early in the remediation life cycle, Ed has not only helped his clients avoid liability, but also assisted owners of contaminated sites to minimize health risks and remediation costs, and proactively take steps to increase the likelihood of recovering expenses from government incentives, insurers, and other liable parties.

Following law school, Ed served as a judicial law clerk to The Honorable Michael H. Dolinger, U.S.M.J., S.D.N.Y., and was a Law Fellow at the Environmental Law and Policy Center in Chicago, Illinois. Ed regularly volunteers as an election observer; his pro bono work has also included advising nonprofits on environmental due diligence related to real estate purchases and the Constitutional implications of state-law incentives for renewable energy development.

## EXPERIENCE

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- **Next Millennium Realty v. Adchem Corp.** Lead associate on complex CERCLA cost-recovery litigation seeking recovery of over \$12 million in remediation costs, and the related case State of New York v. Next Millennium Realty. Responsible for every aspect of the case from pleadings through discovery, summary judgment and appeal. Obtained dismissal of all claims against Adchem Corporation and related family-owned corporations. Assisted in negotiation of favorable settlements in related state and federal enforcement actions.
- **United States v. CMS Energy Corp.** Senior associate responsible for expert discovery and summary judgment briefing defending against CERCLA cost-recovery litigation by the federal government against owners and developers of former limestone mine and cement processing plant. Case settled after summary judgment briefing.
- **HLP Properties, Inc. v. Consolidated Edison Corp.** Member of team seeking recovery of multimillion-dollar cleanup expenses relating to historic industrial operations. Responsible for depositions of technical witnesses and expert discovery.
- Performed due diligence on numerous energy transactions involving traditional fossil-fuel fired power plants and a proposed offshore wind farm (Cape Wind).
- Served as counsel to local governments defending challenges to land-use actions.
- Counsel in citizen suits alleging Clean Water Act, National Environmental Policy Act, and Surface Mining Control and Reclamation Act violations in the permitting and operation of coal mines in the Midwest.
- Worked with clients to respond to environmental enforcement actions, citizen suits, and compliance audits, in order to resolve issues that could lead to environmental liability.
- Extensive experience with hazardous waste sites and related litigation, including supervision of environmental consultants, compliance with state brownfield cleanup regulations and transaction trigger laws, negotiation of cost-sharing and indemnity agreements with private parties and insurers.

## INSIGHTS

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### SPEAKING ENGAGEMENTS

Speaker, "Right Whales, Lobsters, and "Incidental Take" Permits Under the Endangered Species Act: A Case Study," American Wind Energy Association's 2020 Offshore Windpower Virtual Summit, 10.14.2020

Speaker, "The Emerging PFAS Framework: Testing, Reporting, and Response Obligations for Public Water Systems," Nossaman's 2019 Water Webinar Series, 10.30.2019

Presenter, "Renewable Energy: Law, Politics & Practice," Lawline CLE Seminar, 07.2017

Presenter, "A Lawyer's Guide to Power Purchase Agreements for Renewable Energy," Lawline CLE Seminar, 05.2017

Presenter, "Renewable Energy: Law, Politics & Practice," Lawline CLE Seminar, 02.2016

### PUBLICATIONS

Co-Author, "Coronavirus Environmental Enforcement & Compliance Update," *Nossaman eAlert*, 04.22.2020

Co-Author, "DOJ-ENRD Issues Policy Memorandum Ending Use of SEPs in Environmental Settlements," *Nossaman eAlert*, 03.27.2020

Co-Author, "EPA Announces Temporary Policy Suspending Enforcement of Certain Environmental Compliance Obligations During Coronavirus Pandemic," *Nossaman eAlert*, 03.27.2020

Editor, "Environmental Enforcement: Civil and Criminal," *Ch. 10, Clean Air Act & Climate Change (2012-2016 updates)*

## HONORS & RECOGNITIONS

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Included in Best Lawyers: Ones To Watch for Environmental Law and Land Use and Zoning Law, 2021  
Listed, *The Legal 500 United States*, Industry Focus - Energy - Renewable/Alternative Power, 2020  
SAFE Energy Security Fellow, 2018-2019

## COMMUNITY & PROFESSIONAL

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American Bar Association, Section on Environment, Energy, and Resources  
New York State Bar Association  
American Constitution Society  
Securing America's Future Energy (SAFE)

## PRACTICES

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Environment & Land Use  
Litigation

## INDUSTRIES

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Energy & Utilities  
Renewable & Alternative Energy

## EDUCATION

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Harvard Law School, J.D., 2009, *cum laude*; Semifinalist and Team Leader, National Environmental Law Moot Court;  
Article Editor, *Harvard Environmental Law Review*  
Yale University, B.A., 2000

## ADMISSIONS

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District of Columbia  
New York  
Connecticut  
U.S. Court of Appeals, Second Circuit  
U.S. District Court, District of Columbia  
U.S. District Court, Eastern District of New York  
U.S. District Court, Southern District of New York  
U.S. District Court, Western District of Michigan