



LIVINGSTON LAW FIRM

CONCENTRATING IN ENVIRONMENTAL LAW

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PENNI S. LIVINGSTON

PROFESSIONAL LICENSURE

Member of the Illinois Bar November 1987
Member of the Missouri Bar February 2003

LEGAL EXPERIENCE

PRIVATE PRACTICE OF LAW, St. Clair County, Illinois

Owner/Attorney 2007 – present

- ▶ Advising clients and Handling all stages of various environmental litigation matters involving groundwater and soil contamination, wetlands, underground storage tank contamination, CERCLA (superfund contribution litigation), RCRA, NPDES, flooding, erosion, riparian rights, toxic tort matters including mold contamination, water pollution issues, air pollution, and exposure to chemicals; defending enforcement matters against IEPA and USEPA.
- ▶ Representing farmers, individuals, governmental entities, estates with contaminated properties, sellers and purchasers of property (bank/realtor), Madison and St. Clair County Bankruptcy Trustees, companies such as Waste Management, MarChem, Bell City Battery, Bankruptcy Estate of Chemetco.
- ▶ Entities against in environmental litigation include ExxonMobil Coal USA, ChevronTexaco, Conoco-Phillips, Pharmacia, Solutia (formerly called Monsanto), Johnson Lucent, Honeywell, USEPA, IEPA, multiple developers.

PRIOR LEGAL EXPERIENCE

ST. CLAIR COUNTY STATE'S ATTORNEY, Belleville, Illinois

Environmental Assistant State's Attorney January 1993 – February 2001

- ▶ Environmental litigation involving enforcement of all phases of the Illinois Environmental Protection Act including drafting of Complaints, Court Orders, Consent Decrees, Motions, Responses, Petitions, Briefs and Appeals; handling negotiations; conducting discovery; preparing and presenting expert and lay witnesses, exhibits, and arguments and conducting cross-examination.
- ▶ Cases involve obtaining injunctive relief, civil penalties, and criminal sanctions for Air Pollution, Asbestos, Civil and Criminal Contempt, Land Pollution including Hazardous Waste, Landfill Violations and Closure, Local Siting, and Illegal Dumping, Noise Pollution, Underground Storage Tanks, Water (and Groundwater) Pollution, and Zoning. Filed Adversarial Proceedings in Bankruptcy for closure of a landfill. Sued the Federal Government under NEPA. Non-litigation service includes drafting ordinances (i.e. Stormwater), service on several Multi-level Task Forces, advising government agencies, and teaching at law enforcement and citizen training seminars.

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY, Springfield, Illinois

Assistant Legal Counsel

September 1989 - January 1993

- ▶ Handled all phases of Enforcement Cases, Variances, and Permit Appeals: preparing litigation referrals, conducting negotiations and settlement, defending depositions, and drafting Interrogatories, Complaints, Motions, and Variance Recommendations.
- ▶ Actively engaged in all stages of development and implementation of rule-makings: programmatic and policy aspects, negotiating with affected facilities and USEPA, drafting regulations and related documents, preparing, presenting, and cross-examining expert witnesses, and representing the Agency at hearings. Rule-makings included: The First PM-10 State Implementation Plan (SIP) in the Nation, Pharmaceutical RACT Rules (for Ozone), and General Motors CO Emission Limits.

DEKALB COUNTY STATE'S ATTORNEY, Sycamore, Illinois

Assistant State's Attorney

October 1987 - August 1988

- ▶ Actively participated in all stages of criminal cases. Conducted investigations, advised police, filed charges, negotiated pleas, appeared at pre-trial conferences, drafted orders, and filed appeals. Prepared and presented witnesses, exhibits, and arguments and conducted cross-examination at Bench Trials, Jury Trials, Sentencing Hearings, and Hearings on Motions and Petitions.

EDUCATION

VERMONT LAW SCHOOL, ENVIRONMENTAL LAW CENTER, South Royalton, Vermont

Masters of Studies in Environmental Law, August 1989

magna cum laude

NORTHERN ILLINOIS UNIVERSITY, COLLEGE OF LAW, DeKalb, Illinois

Juris Doctor, May 1987

cum laude

NORTHERN ILLINOIS UNIVERSITY, DeKalb, Illinois

Bachelor of Arts, August 1984

Major: Political Science / Public Law, Minor: Economics

GPA: 3.3/4.0

SAUK VALLEY COLLEGE, Dixon, Illinois

Associate in Arts / Pre-Law, May 1982

High Honors

PROFESSIONAL RECOGNITIONS

St. Clair County Health Department Certificates of Appreciation, 2001

Citizens Federation Award for Dedicated and Meritorious Service, 1999

Who's Who in American Law, Seventh Edition, 1992-1993, Tenth Edition, 1998-99

ABI Distinguished Leadership Award for Outstanding Legal Service, 1994

American Jurisprudence Award for Excellence in Intellectual Property, 1987

PROFESSIONAL MEMBERSHIPS

Admitted to the Federal District Court for the Southern District of Illinois
Admitted to the Federal District Court for the Northern District of Illinois
Admitted to the Trial Bar of the Federal District Court for the Northern District of Illinois
Admitted to the U. S. Court of Appeals, 7th Circuit
American Bar Association (Section of Environment, Energy and Resources)
Association of Trial Lawyers of America
Illinois State Bar Association
St. Clair County Bar Association
Gateway Society of Chemical Hazardous Waste Managers

APPELLATE CASES

People v. Zaltsman and Davis
Subject: Contempt Upheld Judgment for the People

St. Clair County v. Santner
Subject: Zoning Upheld Judgment for the County

Chicago Title and Trust v. St. Clair County
Subject: Local Siting of Landfill Reversed Summary Judgment against the County (then won at trial)

People v. V & M Industries, Inc. and Vernon Leirer
Subject: Piercing the Corporate Veil / Air Pollution from 50,000 burned tires
Published Opinion at 700 N.E.2d 746 (1998) with Judgment against the People reversed

People v. Gibson
Subject: Noise Pollution
Summary Judgment for the People upheld

People v. Gain
Subject: Zoning/Grandfathering Uses
Upheld Judgement for the County

Yeida v. Strano
Subject: Breach of Fiduciary Duty/Sale of Farmland
Upheld Judgement against Client Mrs. Yeida (first appellate loss)

Odis Petroleum v. Kuhl
Subject: Oil lease issues
Summary Judgement upheld against Client Kuhl

Natural Land Institute v. St. Clair County
Subject: Endangered Species/Natural Land Areas Protection
Upheld Judgment for the Defendant

Korte v. ExxonMobil Coal USA
Subject: Air Pollution/Personal Injury from Blowing waste dust
Summary Judgment for the Defendant Upheld

CONTINUING LEGAL EDUCATION

Continuing Environmental and Legal Education while at St. Clair County State's Attorney's Office includes ICLE How to Start Your Own Law Practice (8 to 10 week seminar), McElhaney Pre-Trial Practice, District Attorney's Association's Environmental Crime Conference (Phoenix); Soil and Groundwater Contamination Litigation Seminar (U of Wisconsin), Leaking Underground Storage Tank (LUST) Seminar, Professional Responsibility Update, Environmental Forum, Lead Poisoning Seminar, Federal Rules Seminar, Enforcement of Judgments Seminar, Illinois Civil Litigation, Power of Persuasion, and Opening Statements and Final Argument, two other McElhaney Seminars in 2004. Continuing Environmental Education while at IEPA included ABA International Environmental Law Conference, Geology and Hydrogeology (U of I), Composting Class and Tours, and various in house learning sessions. Numerous legal and trial seminars and educational technical seminars in private practice. with the most recent one being Killer Expert Depositions, Springfield May 2005.

PRIOR ENVIRONMENTAL EXPERIENCE

ENVIRONMENTAL ENFORCEMENT CONFERENCE COMMITTEE MEMBER

Montpelier, Vermont September 1988 – December 1988

Served on this committee while attending Vermont Law School. Drafted environmental enforcement legislation which successfully passed into law. Discussed enforcement issues with representatives from government agencies, environmental groups, and the private sector. Researched, prepared legal memorandum, and addressed the December 1988 Environmental Enforcement Conference on the Constitutionality of Administrative Penalties.

LEGAL INTERN, ILLINOIS POLLUTION CONTROL BOARD

DeKalb, Illinois February 1987 to June 1987

Researched, discussed, and prepared well-reasoned writings regarding legal and factual issues in specific environmental cases, draft opinions, and rulemaking for Board Member Dr. Ronald Flegal.

ENVIRONMENTAL COURSE WORK

Environmental Law, Environmental Law Seminar, Land Use Control, Administrative Law, Ecology, Water Resources, Law of Toxics and Hazardous Pollutants, Science, Risk and the Law of Toxics, International and Comparative Environmental Law. Audited classes include Agricultural Law, Biotechnology and Law, Superfund Alternative Dispute Resolution, and Environmental Negotiation.

ON SITE TOURS

Lone Star Cement before and after the \$22 million renovation, Solutia's Krumrich Facility (formerly Monsanto), Big River Zinc, Ethyl Petroleum, General Motors Central Foundry, Shell Oil, American Bottoms Treatment Plant, Onyx Environmental TWI (Hazardous Waste Incinerator), Foster Forbes Glass Plant, Waste Recovery (a tire shredding operation), Elementis (formerly Harcros Pigments), Clayton Chemical, Petra Chemical, Chemetco, Larson Oil Co., MarChem, and numerous landfills and composting facilities.

TEACHING ENGAGEMENTS

Lorman Seminars January 2005
Subject: Stormwater/Flooding Litigation

Botanical Garden, Earth Day 2003
Subject: Stormwater Regulation

Public Awareness and Outreach power point presentations and public discussions on Stormwater Management and Erosion Control under an USEPA Environmental Justice Grant February- Spring 2002

Teaching Introduction to Law for the paralegal program at South Western Illinois College Summer 2001

Speaker at the USEPA Region V conference entitled "Partnering for a Healthy Environment" in Collinsville, Il. Summer 2001 Subject: Regional Flooding and Stormwater Management

Speaker at St. Louis Metropolitan Water Symposium at the Botanical Gardens Spring 2001
Subject: Stormwater Management

Guest speaker for Solid Waste Association of North America Land of Lincoln Chapter Spring 2000
Subject: Supplemental Environmental Projects

Training Code Enforcers in East St. Louis with USEPA and IEPA Spring 2000

Citizen Police Academy Instructor East St. Louis Fall 1995 and Fall 1996
Subject: Environmental Violations

Citizen Environmental Academy Instructor State Community College East St. Louis Spring 1996
Subject: Air Pollution

USEPA Gateway Initiative Law Enforcement Training Seminar Instructor Fall 1996
Belleville and Collinsville, Illinois

St. Clair County Citizen Environmental Awareness Seminar Speaker Fall 1996
Subject: Illinois Environmental Protection Laws

Illinois Solid Waste Professional Association Seminar Speaker Springfield, Il. Fall 1995
Subjects: Enforcement of the Environmental Protection Act

At various times while at IEPA and at the State's Attorney's Office, training seminars for regulatory and field personnel on the role of the expert witness and on testifying (with emphasis on cross-examination).

Guest Speaker Texas Wesleyan University School of Law (Dallas) September 1992
Subject: Regulatory Development/New Clean Air Act