



Donald B. Mitchell

PARTNER

Don is an experienced environmental and commercial litigator and has litigated cases in many different subject areas, from environmental cost recovery and toxic torts to commercial contract cases, and from securities litigation to rental housing conversions to commercial breach of lease cases.



Industries

Practices

Complex Litigation

Education

The George Washington University Law School JD, highest honors; Order of the Coif, 1981

Georgetown University BA, high honors, 1976

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He has appeared before state and federal courts and agencies around the country.

In environmental matters, Don has extensive experience in hazardous substance and cost recovery litigation, and in other cases involving scientific evidence and historical site operations issues, having practiced environmental law since he began his career at Arent Fox in 1981. Don's practice also addresses the "Brownfields" environmental issues arising in real estate development, including transactional drafting and structuring, recovery of costs for such developments, and the interactions with state voluntary cleanup programs.

Don's other area of focus is commercial real estate litigation. Don has particular expertise in the legal issues arising out of the landlord-tenant relationship, including default, repossessions, evictions, intentional breach, conversions of residential properties, and renovations of buildings subject to existing commercial leases. Don has also litigated cases involving the meaning and enforcement of restrictive covenants.

Client Work

Don has served as lead counsel in several nationally important first impression lawsuits limiting the scope of liability under federal statutes governing hazardous substances. Don has also litigated environmental cost recovery cases, several times recovering judgments for 100% of cleanup costs, and is regularly involved in enforcement cases before state and federal agencies and with the Department of Justice. He has litigated toxic tort cases, handling expert witnesses in numerous scientific and medical disciplines, as well as legal strategy and argument. He has also litigated novel cases under the commercial laws, including the securities laws and the rental housing conversion laws.

Don has also counseled clients on business structure and liability questions as they affect the intersection of real estate transactions and the environmental laws, bringing an appreciation of business entity design and transactional needs, as well as the legal, technical, and financial implications of pollution to the negotiating table. In other situations, unforeseen conditions in acquired properties have resulted in subsequent disputes that have been resolved to the purchaser's

satisfaction. Using Don's skills, Arent Fox's business clients can achieve a comprehensive solution to environmental questions while achieving business goals.

Among Don's trials and arbitrations is the following selection of reported decisions:

- *1325 G Street Assocs. v. Rockwood Pigments NA, Inc.*, 2004 WL 2191709 (D. Md. 2004), and 235 F. Supp. 2d 458 (D. Md. 2002)
- *Gould, Inc. v. A&M Battery and Tire Service, Inc.*, 232 F.3d 162 (3d Cir. 2000), rev'g, 987 F. Supp. 353 (M.D. Pa. 1997), on remand, 176 F. Supp. 2d 324 (M.D. Pa. 2001)
- *Joslyn Mfg. Co v. T.L. James & Co.*, 696 F. Supp. 222 (W.D. La. 1988), aff'd, 893 F.2d 80 (5th Cir. 1990)
- *1618 Twenty-First Street Tenants' Ass'n, Inc. v. The Phillips Collection*, 829 A.2d 201 (D.C. 2003)
- *Northwestern Mutual Life Ins. Co v. Atlantic Research Corp.*, 847 F. Supp 389 (E.D. Va. 1994)
- *Foster v. United States*, 130 F. Supp. 2d 68 (D.D.C. 2001)
- *National Telephone Coop. Assoc. v. Exxon Corp.*, 38 F. Supp. 2d 1 (D.D.C. 1998); 244 F. 3d 153 (D.C. Cir. 2001)
- *Safeway, Inc. v. CESC Plaza Ltd. P'ship.*, 261 F. Supp. 2d 439 (E.D. Va. 2003)
- *Badlands Trust Co. v. First Financial Corp.*, 224 F. Supp. 2d 1033 (D. Md. 2002), rev'd, 2003 WL 194858 (4th Cir. 2003)
- *Neuberger Berman Real Estate Income Fund, Inc. v. Lola Brown Trust No. 1*, 485 F. Supp. 2d 631 (D. Md. 2007)
- *PLC Partners LLC v. Choice Hotels*, 203 Md. App. 744 (2012), cert. denied, 427 Md. 64 (2012).

Don's clients have included companies such as Konterra Development, LLC, Metalico, Inc., Safeway, Inc., Apex Companies, LLC, The JBG Companies, Ford's Theatre, Choice Hotels, and Badlands Trust Company.

Publications, Presentations & Recognitions

Don has received the *Martindale AV* rating in Environmental Litigation.

Don has been published in *Urban Land*, the official publication of the Urban Land Institute.

- Supreme Court Clears Path for Landowner's Cleanup Cost Recovery

As an expert in the environmental laws affecting recycling, Don has spoken at multiple conventions of the Institute of Scrap Recycling Industries.

Bar Admissions

District of Columbia

Court Admissions

Supreme Court of the United States
US District Court, District of Maryland
US Court of Appeals, District of Columbia Circuit
US Court of Appeals, 5th Circuit
US Court of Appeals, 4th Circuit
US Court of Appeals, 3rd Circuit
US District Court, District of Columbia