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Diamond & Robinson, P.C.

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EXPERIENCE

Attorney, Diamond & Robinson, P.C., 2015-present.

Attorney in an innovative Montpelier law firm that advises and represents businesses, individuals, government, and non-profit organizations in a broad range of practice areas. My practice areas include environmental, energy and utility, land use, zoning, public and civil rights, administrative law, and governance. I practice before federal and state trial and appellate courts, federal and state regulatory agencies, and municipalities.

Chair, Vermont Natural Resources Board, 2011-2015.

Responsible for administration of Act 250, Vermont's land use permitting law, and the agency that implements the Act. Duties included support and oversight of nine District Commissions who make permitting decisions through quasi-judicial hearings, chairing the NRB's quasi-judicial review of Act 250 jurisdictional determinations, formulating land use policies, rulemaking, appearing before the Legislature regarding Act 250 and related issues, enforcement, coordinating Act 250 issues with agency partners and other stakeholders, recruiting and recommending potential Commissioners and Board members to the Governor, staff and Commissioner training, public outreach and education, and supervision of and coordination with 95 staff, Commissioners and Board members.

Supervising and Consulting Attorney, Vermont Law School Land Use Clinic. 2010-2011.

Supervise student legal work and provide instruction, assist in developing student projects, lead Clinic seminars.

Partner, Shems Dunkiel Kassel & Saunders PLLC. March 2001-2011.

Founding Partner in law firm dedicated to providing business, non-profit, and governmental clients with high-quality counsel and litigation services. Concentration in environmental and energy law.

Assistant Attorney General, Vermont Attorney General's Office. 1985-2001.

Duties include: enforcement and litigation of hazardous and solid waste, water pollution, air pollution and land use laws; managing significant cross-divisional legal issues; provide counsel to and representation of the Vermont Agency of Natural Resources, Environmental Board, Water Resources Board, Public Service Board, and other state agencies; represent the State of Vermont before state and federal trial, appellate and bankruptcy courts, and federal administrative tribunals; legislative drafting and testimony; provide guidance on environmental policy decisions; coordinate environmental policy with the National Association of Attorneys General, other States, and other

national organizations; hire, supervise and train attorneys and interns; determining whether to join national litigation regarding environmental or states' rights matters, and coordinating press coverage.

Accomplishments and skills include:

Litigation of significant cases including:

- *In re: UPC Vermont Wind, LLC* (First Wind), 2009 VT 19, 185 Vt. 296 (2009), lead counsel for First Wind before the Vermont Supreme and Environmental Courts.
- *S.D. Warren v. Maine*, 547 U.S. 715 (2006) member of intervenor/respondent American Rivers' legal team before the U.S. Supreme Court in unanimous decision that hydroelectric dams must comply with the Clean Water Act.
- *Friends of the Earth et al. v. Watson*, No. 02-4106(JSW) (N.D. Ca.) and No. 03-72620 (9th Cir. 2003) representing Friends of the Earth, Greenpeace and the Cities of Boulder, CO, Arcata, CA, Oakland, CA, and Santa Monica, CA in claim that federal export credit agencies must consider their projects' contributions to climate change. First case to hold that climate change provides Art. III standing.
- *Forest Watch v. United States Forest Serv.* 401 F.3d 115 (2d Cir. 2005) enjoining and vacating Forest Service timber sale in pristine area of Green Mountain National Forest.
- *Senville v. Peters*, 327 F. Supp. 2d 335 (D. Vt. 2004) blocking construction of circumferential highway around Burlington, VT.
- *Alabama Rivers Alliance v. FERC*, 325 F.3d 290 (D.C. Cir. 2003) reversing Federal Energy Regulatory Commission's decision that a hydroelectric dam was not subject to Clean Water Act compliance.
- *Sierra Club, Inc. v. Tyson Foods, Inc.*, 299 F. Supp. 2d 693 (W.D. Ky. 2003) determining that hazardous materials laws govern ammonia emissions from chicken farms.
- *Pharm. Research & Mfrs. of Am. v. Thompson*, 251 F.3d 219 (D.C. Cir. 2001) defending challenge to Vermont's pharmaceutical benefit program.
- *Nat'l Electrical Manufacturers Ass'n v. Sorrell*, 272 F.3d 104 (2d Cir. 2001) reversing District Court decision to enjoin enforcement of Vermont's mercury labeling law;
- *In re: OMYA, Inc.*, 171 Vt. 532 (2000) upheld Act 250 permit condition limiting the amount of trucks a development can route through an historic Vermont village center;
- *Vermont Agency of Natural Resources v. United States ex rel. Stevens*, 529 U.S. 765 (2000) states are not "persons" liable under the False Claims Act;
- *United States ex rel. Long v. SCS Business Institute*, 173 F.3d 870 (D.C. Cir. 1999) opinion supplemented by 173 F.3d 890 (D.C. Cir. 1999) states are not "persons" liable under the False Claims Act;

- *Gasoline Marketers v. Ripley*, 169 Vt. 504, 739 A.2d 1230 (Vt. 1999) promulgation of gasoline pump vapor control requirement complied with APA;
- *American Rivers and State of Vermont v. FERC*, 129 F.3d 99 (2d Cir. 1997) -- FERC cannot review or supersede state water quality requirements;
- *Brigham v. State*, 166 Vt. 246 (1997) defended suit in which right to equal educational opportunities was recognized;
- *In Re Wal*Mart Stores, Inc.*, 167 Vt. 75 (1997) upheld denial of Act 250 permit for Wal*Mart store because of impact on Downtown St. Albans;
- *North Carolina v. FERC*, 112 F.3d 1175 (D.C. Cir. 1997) wrote amicus brief on behalf of numerous states supporting North Carolina's appeal;
- *OMYA, Inc v. FERC*, 111 F.3d 179 (D.C. Cir. 1997) conditions of license and water quality certification do not amount to unconstitutional taking;
- *Rapid Rubbish Removal v. Ripley*, 988 F. Supp. 414 (D.Vt 1997) clean up of solid waste facility consistent with federal constitution and laws.
- *Killington, Ltd. v. State*, 164 Vt. 253 (1995) preservation of habitat under Act 250 is not unconstitutional taking of property;
- *Georgia Pacific Corp. v. Dept. of Environmental Conservation*, 159 Vt. 639 (1992) companion case to *P.U.D. No. 1 v. Washington Department of Ecology*; 511 U.S. 700 (1994) – Clean Water Act authorizes States to set minimum flow requirements for federally-licensed hydroelectric facilities;
- *Southview v. Bongartz*, 980 F.2d 84 (2d Cir. 1992) preservation of habitat under Act 250 is not unconstitutional taking of property;
- *In re Denio*, 158 Vt. 230 (1992) affirming principles critical to Act 250's administration.

Team leadership and project management: Lead counsel responsible for managing complex litigation and legal matters. Responsibilities include coordination of legal positions with clients, hiring of local counsel and experts, developing and working within budgets, working with stakeholders, and managing attorneys, clerks and administrative staff. Examples include:

- Implementation of new Act 250 mandate to limit strip development;
- Coordination of proposed changes to Act 250 with agency partners and stakeholders, and shepherding the changes through the Legislature;
- Lead counsel for U.S. and Canadian citizens and business owners opposing development of three liquefied natural gas terminals and pipeline on Passamaquoddy Bay, Maine;
- Lead counsel for NGOs and four cities in landmark climate change litigation;
- Founding and growth of the Burlington, VT law firm, Shems Dunkiel Kassel & Saunders;

- Coordination of State of Vermont’s legal positions relating to HydroQuebec and electric utility restructuring, and preparation of Vermont’s legal response in the event of utility bankruptcy;
- New England representative on National Association of Attorneys General (“NAAG”) environmental steering committee;
- Member of FACA committee reviewing changes to FERC licensing rules.
- Assist in development of Vermont Attorney General’s Office environmental policy and responsible for coordinating policy directly with other States and NAAG;
- Coordination of litigation closing Vermont’s unlined landfills;
- Member of Vermont Attorney General’s Office tobacco litigation team; and
- Coordinating educational mock trial program with local high school students.
- Lead counsel responsible for management of most of above-mentioned cases;

Negotiation and mediation to resolve matters in, or prior to litigation; formulate legal response on behalf of diverse interests; and build coalitions. Examples include: negotiation of national and state hydroelectric issues and settlement of *CLF v. Ripley* (conservation group and Vt. Ski Area Association challenge to snow-making rules).

AWARDS

Best Brief Award in recognition of excellence in brief writing in the United States Supreme Court (1999 Term). Awarded by the National Association of Attorneys General for the merits brief authored in *Vermont Agency of Natural Resources v. United States ex rel. Stevens*, No. 98-1828.

Marvin Award for outstanding leadership, expertise and achievement in advancing the goals of the National Association of Attorneys General. June, 2000. Recognized work done to raise awareness and build coalitions of States to further the States' ability to protect water quality and the environment.

OTHER EXPERIENCE

Justice of the Peace/Member of Board of Civil Authority, Moretown, VT, 1998-2008, 2015-present.

Member of Moretown School Board, December 2014-present.

Member of Vermont Energy Action Network Board of Directors, 2013-present. EAN is a community of high-level stakeholders – business, government and non-profit leaders who are committed to collaborating as a network to achieve the goal of meeting 90% of Vermont’s energy needs through renewable energy and increased efficiency by 2050.

Mad River Glen Co-op Trustee, April, 2015-present. Member of the Mad River Glen Cooperative Board overseeing skier-owned mountain.

Teaching Assistant/Writing Instructor. Environmental Affairs and Science Technology and Society Departments, Clark University. Spring semesters, 1981-82.

EDUCATION

Vermont Law School, South Royalton, VT

Juris Doctor, 1985

Master of Studies in Law, Environmental Law Center at Vermont Law School, 1985

Clark University, Worcester, MA

B.A., 1981, Majors: Science, Technology, and Society with a concentration in Biology;
French. Course work completed for Masters in Environmental Affairs; 1982.

BAR ADMISSIONS

State of Vermont

State of Maine

United States District Court for the District of Vermont

United States Courts of Appeals for the 1st, 2nd, 4th, 9th and D.C. Circuits

United States Supreme Court

PERSONAL

Bilingual in English and French; skiing; biking; travel.