HALL BOOTH SMITH, P.C.

ENVIRONMENTAL, MASS TORTS, & LAND USE

HBS represents clients of all sizes on environmental, mass torts, and land use matters, and we align our legal strategy to the unique needs of each client.

OVERVIEW | EXPERIENCE | SERVICES

Overview

HBS is unique in our state-wide reach and connection with numerous local governments. For our clients who are dealing with environmental, mass tort, and land use issues, these advantages will, in many cases, translate into timely resolution and desirable outcomes.

Environmental Law

One of the most dynamic and high-profile legal areas today, environmental law has an impact that reaches every segment of our society. Made up of global, international, national, state and local statutes, treaties, conventions, regulations, and policies, environmental law seeks to protect the environment and natural resources from the affects of or endangerment by human activities.

Environmental decisions not only impact a company's ability to do business, but they also affect the water we drink and the air we breathe. Hall Booth Smith attorneys bring extensive experience in the environmental legal arena. We consult with businesses to pursue permits and to ensure compliance. We work as defense counsel to help companies maintain their financial health and

Leadership



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Full Team

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positive public image. We also work hand-in-hand with government agencies to ensure necessary public projects continue to move forward while minimizing impacts to our natural resources.

Our attorneys have participated in more than twenty trials involving environmental issues.

Mass Torts

Mass tort litigation refers to circumstances where a company or individual is accused of doing harm to multiple people as a result of an action or product. Cases in this practice area include product liability claims, large business antitrust claims, and large scale “man-made” disasters.

Mass marketing of products, the mass media, and the evolution of plaintiff law firms have lead to an increase in mass tort cases. These cases are extremely complicated and can be potentially devastating to companies.

The attorneys at HBS have extensive experience handling the complex litigation matters presented in mass tort cases and offer you the best defense at a reasonable cost. We have successfully represented clients in toxic tort/products liability cases, complex chemical issues, large toxic mold cases, asbestos-related claims, and environmentally related claims.

Land Use

In today’s ever changing real estate market, land developers experience more environmental hurdles than ever before, making appropriate due diligence a must and a typical transaction more often a difficult task. Our attorneys represent a variety of clientele involved in these transactions, including individual home owners; lenders; and small, medium, and large land development companies.

We are well versed in the laws concerning water, land, and green

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technology issues in the Southeast. Our attorneys work with developers and local governments to provide long-term minimization of environmental issues while obtaining the highest and best use of real estate.

Our experience on both sides of the issues helps us stay very aware of the sensitivities and details that affect our clients in this delicate area of practice. The attorneys of Hall Booth Smith's Environmental, Mass Torts, & Land Use practice have represented clients for more than thirteen years in almost every facet of environmental litigation including:

- Due Diligence Investigations
- Environmental Permitting
- Real Estate Development Issues
- Environmental Assessments and Audits
- Regulatory and Permit Compliance
- Loss Prevention
- Mold Related Litigation
- Chemical Release Litigation
- Asbestos Related Litigation
- Class Action Defense

HBS brings a unique understanding of how to work with governmental authorities to obtain the approvals our clients seek. Even though we seek a mutual agreement on permitting issues with the regulatory agencies, we are not adverse to pursuing judicial review where approvals are not forthcoming. Likewise, when litigation of environmental disputes is warranted, HBS has the experience and knowledge to provide expert representation.

Experience

The voice of our law firm is heard through the individual involvement of our attorneys in environmental commitments:

- Georgia representative on the Environmental and Natural Resources Committee for the National Council of State Legislators
- Special Executive Counsel to Governor Sonny Purdue on

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water issues
- Georgia Economic Developers Association member
- Southeastern Energy Society members
- Authored many articles on environmental issues
- Georgia Association of Water Professionals
- Smart Growth Newton County Board of Directors
- Covington Urban Redevelopment Authority
- Member of the Metropolitan North Georgia Water Planning District’s Basin Advisory Council for the Ocmulgee River Basin and the City of Covington
- Member of the Agricultural Education Advisory Commission

Outcomes

With professional skill and integrity, HBS attorneys have successfully represented many clients through mediation, motion practice, administrative bodies, bench and jury trials. We have represented clients before the Georgia Department of Natural Resources, the Georgia Environmental Protection Division, the U. S. Environmental Protection Agency, and the U. S. Army Corp of Engineers. Recent highlights include:

- Successfully defended toxic/tort products liability case involving complex chemical liability issues (the Georgia Supreme Court used this case to affirm the Constitutionality of Georgia’s expert witness tort reform statue)
- Successfully defended entities sued by Cherokee County Board of Commissioners and Cherokee County fire-fighters for mold exposure
- Represented clients on Clean Water Act issues
- Successfully defended asbestos-related environmental and mass tort claims
- Successfully defended a County’s Wastewater Discharge Permit through the appeals process all the way to the Georgia Supreme Court.

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Services

HBS attorneys have a wide range of experience representing entities in environmental, mass torts, and land use cases. Our attorneys are typically involved in matters ranging from $1 million to $100 million. We have represented individuals, lenders, businesses, and governmental entities in almost every facet of work including:

Community-Right-to-Know

We assist clients with respect to the various reporting and record-keeping obligations under the Emergency Planning and Community Right to Know Act (EPCRA) including emergency planning and notification, emergency release reporting obligations, chemical hazard reporting, toxic release (Form R) reporting, the resolution of compliance, and enforcement matters relating to these obligations, along with pre-inspection preparation.

Environmental Due Diligence

We assist clients in evaluating land use and environmental issues and in resolving regulatory challenges posed by different types of development. These activities include assisting clients with environmental and land use “due diligence” prior to purchasing or developing real property for residential, commercial, and industrial development such as conducting land use and zoning verification, reviewing the status of development and environmental permits, reviewing agency files, and meeting with zoning and environmental officials regarding particular issues.

As a result of these due diligence activities, we assist clients in identifying potential land use and environmental issues and in resolving those issues at the outset of a transaction. Later in the process, we represent clients through the permitting process and any appeals or challenges. We also assist clients in the negotiation of various environmental representations, warranties, covenants, and releases which have become a “standard” part of the

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development agreements, leases, easements, mortgages and loan agreements involved in the clients' land development efforts.

Environmental Litigation (Overview)

We have substantial trial, transactional, and regulatory experience in a broad range of subjects and have developed skills in managing large, complex litigation, and regulatory matters in an economical manner. These include matters involving solid waste, air and water quality, water rights and water supply, RCRA, EPCRA, the Clear Air Act, CWA, toxic torts, tank regulation, indoor air quality, land use, worker protection, and community right-to-know.

Our attorneys work regularly with scientists in a wide range of specialties, and we have vast experience in working with toxicologists, epidemiologists, immunologists, geologists, geohydrologists, oncologists, chemists, and biochemists.

Mold & Microbial Contaminants

The evaluation and remediation of mold or other microbial "contamination" can be technically challenging at best. We advise clients as to the applicable state and federal regulatory guidance, the retention of consultants and remediation contractors, the implementation of remediation projects in occupied space, the coordination with other regulatory requirements (such as renovations involving asbestos containing building materials), the environmental due diligence and contract/lease drafting issues involving mold concerns, and the development of property management and maintenance employee guidance for dealing with mold in commercial and residential properties.

Permitting

We assist clients with all phases of permitting from developing pre-application or pre-renewal strategies through the application

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process, negotiation of permit conditions, challenges to proposed permit conditions, and other permit compliance and enforcement matters. We represent clients before all federal, state, and local agencies and boards, including the US Environmental Protection Agency, the US Army Corps of Engineers, the Georgia Department of Natural Resources, and the Georgia Environmental Protection Division, and local governments.

Our state-wide presence and relationships with local and agency staff and management, plus our strong legal and government affairs teams in Atlanta enable us to craft solutions to thorny regulatory problems. Substantive areas include water (supply, reuse, industrial and domestic wastewater facility permitting, stormwater, and NPDES), solid and hazardous waste (landfills, transfer stations, used oil recycling, and solid waste management facilities), coastal construction, marinas, wetlands, and dredge and fill permits.

Regulatory Compliance

We advise clients on all aspects of regulatory and permit compliance including responses to agency inspections, record-keeping and reporting/notification obligations, and development of internal compliance auditing strategies or other tailored internal procedures to minimize the potential for adverse regulatory enforcement. In addition, we assist clients in developing detailed technical and legal responses to alleged violations of law, permit, or rule in order to settle violations in a mutually acceptable manner. This may include development of in-kind settlement solutions or acceptable pollution prevention plans that can offset a proposed penalty amount, particularly in the context of representation of governmental agencies.

Rulemaking & Rule Challenges

We provide legal assistance to clients by monitoring and participating in agency rulemaking proceedings to ensure that the clients’ perspectives are presented to the agency and reflected in

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the record of rulemaking. In addition, we represent clients in administrative challenges to existing and proposed rules, as well as to those agency statements that meet the definition of a rule but have not been formally adopted.

Our experience in rulemaking and rule challenge matters ranges across a wide array of subjects including such diverse matters as building code criteria, professional and business licensure, environmental permitting, state tax, and insurance.

Solid & Hazardous Waste

We handle all aspects of solid and hazardous waste regulation, permitting, and compliance including closure permits, matters relating to various special wastes such as bio-hazardous waste, used oil, PCBs, construction and demolition debris, asbestos containing building materials and wastes, automobile shredder residue and other metal recycling and scrap industry related wastes, landfill operation and permitting, and waste transportation issues.

Stormwater Permitting

We represent clients before federal, state, and local government agencies in addressing issues concerning stormwater and stormwater permitting. We work with clients and assist in the preparation of permit applications that meet all applicable regulatory requirements. Typically, this involves the coordination of engineers and consultants in collecting the necessary information to complete the application. In addition, we represent clients in conjunction with enforcement issues concerning existing stormwater permits.

Threatened & Endangered Species

We represent clients on issues relating to threatened, endangered,

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and listed species at the local, state, and federal levels.

At the local level, we advise and represent clients in connection with the development and the application of local land use regulations designed to safeguard these species. At the state level, we deal directly with the Environmental Protection Division and Wildlife Resources Division on issues relating to the possible impacts of development activities on wildlife, including species of special concern. And, at the federal level, we deal directly with the US Fish & Wildlife Service on issues relating to federally threatened or endangered species and their critical habitat.

We also represent clients in enforcement proceedings when there has been an alleged violation of local, state, or federal criteria relating to a protected species.

Wetlands, Dredge and Fill, & Mitigation Banking

Our team members have significant experience representing clients in connection with a wide range of environmental permitting and compliance matters, particularly in the areas of wetlands, dredge and fill, and mitigation banking.

We are experienced guiding clients through Section 404 and other permitting by the Army Corps of Engineers. Moreover, we are experienced in the permitting of compensatory mitigation banks and the utilization of mitigation credits purchased from such banks on specific projects.

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