



# Rick Capozza

*Partner*

Syracuse

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## Education

- Syracuse University College of Law, JD
- State University of New York College of Environmental Science and Forestry, *Magna Cum Laude*, BS

## Practices & Industries

- Electric Power
- Energy
- Environmental
- Hotels, Hospitality & Food Service
- Linear Infrastructure
- Oil & Gas
- Outdoor & Wildlife
- Renewable Energy

## Admitted to Practice

- New York

## Biography

Rick serves as the chair of the Energy Practice Area; leader of the Electric Power Team; and co-team leader of the Renewable Energy, Oil & Gas, and Linear Infrastructure Teams. He is the primary client relationship manager for the firm's largest energy and utility clients, with responsibility for handling all aspects of these relationships. His practice focuses on energy and environmental issues related to transactions involving mergers and acquisitions, financing, restructuring, project development, contaminated sites, regulatory compliance, and permitting. He provides a strategic, pragmatic approach in reaching settlements, completing projects, and closing transactions.

Rick represents electric-power generators (renewable, fossil-fuel, and nuclear), oil and gas producers and pipelines, electric utilities, and developers. He advises and counsels the firm's oil and gas clients on the development of the Marcellus Shale and the siting of related infrastructure. He also counsels a diverse array of Fortune 500 companies and manufacturers from the aerospace and defense, medical-device, petroleum-distribution, retail, plastics, pharmaceutical, aluminum, paper, and steel sectors.

Rick has been the lead attorney on several large energy-related transactions. He handles the transfer, acquisition, and modification of all federal and state environmental permits on large, multi-facility energy and manufacturing mergers and acquisitions to ensure the ability to operate post-closing. He negotiates contractual protections and financial safeguards to minimize client exposure to environmental liabilities. Rick advises clients on resolving liability and minimizing financial exposure involving contaminated legacy sites through the use of both legal and technical strategies. He has extensive experience with complex Superfund sites involving contaminated waterways and sediments, the identification of multiple third parties and sources, and natural resource damages (NRD).

Rick regularly represents clients in matters involving project development, permitting, compliance, and the enforcement of

federal environmental regulations and state counterparts that include the CAA, CWA, EPCRA, RCRA and TSCA. He counsels clients on response and reporting to chemical and petroleum spills and releases pursuant to federal and state law. Rick also has niche experience with federal and state laws and regulations applicable to wildlife resources, including the Endangered Species Act, CITES, the Lacey Act, and the Migratory Bird Treaty Act, and is the co-team leader of the Outdoor & Wildlife Team.

## Bar Associations

- American Bar Association, Natural Resources, Energy, and Environmental Law Section
- Federal Energy Bar Association

## Selected Memberships & Affiliations

- Ad-Hoc Industry Natural Resources Damage Group
- Air & Waste Management Association
- Independent Power Producers of New York
- Institute for Energy Law Advisory Board
- National Hydropower Association

## Representative Experience

- Provides ongoing monitoring and updates of the latest legal and regulatory activities regarding shale gas and pipeline issues for energy and gas-production clients.
- Represents a client on its status as a potentially responsible party (PRP) at the Onondaga Lake NPL site in Syracuse, New York, one of the largest lake Superfund sites in the United States. This is a complex site involving over a century of industrial and municipal discharges to the lake, multiple PRPs and sources, several upland and tributary subsites, and several federal and state regulatory agencies, including the NYSDEC, USEPA, USDOJ, and USFWS. Represents the company in settlement negotiations with the major responsible party over the allocation of costs for the remediation of lake sediments and NRD issues asserted by federal and state trustees, as well as with NYSDEC and USEPA as part of PRP groups formed to address NPL subsite and past-cost demands.
- Represents clients from various industries on PRP groups and their committees (Steering, Technical, Allocation) formed to address the investigation and remediation of state and federal Superfund sites, negotiation with state and federal agencies, and allocation and cost recovery from third parties.
- Represents a major petroleum distributor and retailer in the Northeast on multiple locations across New York State on

compliance with petroleum bulk-storage and spill regulations and the negotiation of administrative settlements with the NYSDEC.

- Serves as counsel on the renewal of a Title V (Clean Air Act) permit for a combined-cycle electric-generating turbine. The renewal included, among other things, the negotiation of terms with NYSDEC related to emissions associated with the startup and shut down of the unit. Successful in obtaining flexible limits to reduce the risk of associated noncompliance and enforcement actions. Prior to the revisions, the facility risked noncompliance and potential citizen suits.
- Provides strategic advice and counseling to a confidential client, working with expert consultants on the identification of historical and contemporary third-party sources of contamination to a complex, contaminated sediment site and the allocation of those sources by historical research, aerial-photo interpretation, forensic fingerprinting, and sediment-data interpretation.
- Served as lead attorney in the representation of an international energy company on New York-specific aspects of a \$3.3 billion investment in a joint venture with interests in Marcellus Shale assets in Appalachia.
- Served as co-counsel to a leading Canadian energy-infrastructure company on its purchase of all outstanding membership interests in a 2,400MW generating station in New York City for \$2.8 billion from a large investor-owned public utility.
- Involved in the siting of a new 120-mile interstate gas pipeline that will connect a Marcellus Shale gas-gathering system in Susquehanna County, Pennsylvania, to an interstate natural gas-transmission pipeline in Schoharie County, New York.
- Represented one of largest competitive generators of wholesale electricity in the United States in an asset sale of 71 hydroelectric-generating facilities and a 100MW co-generation facility for \$874 million and in a \$975 million stock sale of a 1,280MW fuel oil and natural gas plant located in New York City.
- Represented a wholesale-power generator during a 2002 stock acquisition by one of largest competitive generators of wholesale electricity in the United States for \$2.9 billion. The purchase included more than 80 power plants, with a combined generating power of 5,900MW and with 5,000MW more under construction. Counseled and handled all environmental, regulatory, real property tax, real estate, and other matters in New York.
- Represented a nuclear-energy producer in the asset purchases of two nuclear-power facilities on Lake Ontario with generating capacities of 1750MW and 495MW and purchase prices of \$695 million and \$401 million, respectively, from investor-owned public utilities.

- Provided an energy utility with comprehensive factual and legal analysis of claims and defenses arising from the Hudson River and Onondaga Lake Superfund sites.
- Represented a \$975 million stock sale of a 1,280MW fuel oil and natural-gas plant located in New York City.
- Counseled in the asset purchase of a nuclear-generating facility on Lake Ontario with a generating capacity of 495MW and a purchase price of \$401 million.
- Represented a global renewable-energy company on various transactions since 2005, including the acquisition of hydroelectric-generating facilities, corporate restructuring, financing, and a public offering.
- Represented a global aluminum producer on compliance and permitting relating to its aluminum-rolling manufacturing operation in Oswego, New York, including air-emissions issues (Title V, PSD, PM, BACT, opacity) RCRA, and other waste-disposal requirements.
- Represented a global aluminum producer from 2001 through 2009 in the investigation and remediation of a New York State-listed Superfund site near Lake Ontario consisting of former process-water impoundments, ponds, and wetlands contaminated by PCBs, and included the negotiation of consent orders for the Remedial Investigation/Feasibility Study (RI/FS), Remedial Design/Remedial Action (RD/RA), and settlement of claims for natural resource damages (NRD) with the NYSDEC.
- Represented a 2,400MW generating station located on the East River in New York City regarding air emissions and water-discharge compliance and permitting, legacy contamination issues, and spill reporting and response.
- Coordinated a manufacturing company's self-reporting and correction of potential violations discovered in the course of an environmental audit, resulting in an EPA determination to waive all applicable penalties.
- Addressed New York State rare, threatened, and endangered wildlife and plant issues and sensitive and critical habitats in reaching a settlement and execution of an agreement with the NYS PSC, the NYSDEC, environmental stakeholder groups, and the developer of a 1000MW HVdc electric-transmission cable that will run from the United States-Canada border to New York City.
- Represented an investor-owned public utility on the investigation and remediation of two legacy manufactured-gas plants (MGP) sites located in Syracuse, New York, adjacent to and on a tributary to a federal NPL site. Worked with the client, site consultant, and experts to reach an administrative settlement on required site remediation with NYSDEC, USEPA, and other stakeholders and closing out potential offsite-related sediment and groundwater issues and impacts based on strategic site characterization, data collection, and historical research.

- Represented an investor-owned utility and several PRP groups on the settlement of claims with Motors Liquidation Company and its claim administrator over General Motors' outstanding share of costs for investigation and remediation at several state and federal Superfund sites as a result of GM's filing for bankruptcy in June 2009. The current representation is focused on addressing GM's "orphan share" at sites created when the state or federal government settled with MLC, which left a substantial shortfall.

## Prior Experience

- Hiscock & Barclay, LLP, Partner
- Blasland, Bouck & Lee, Inc. (nka Arcadis), Environmental Scientist

## Selected Community Activities

- Everson Museum of Art, Honorary Trustee
- SUNY College of Environmental Science and Forestry Alumni Association, Board of Directors Member
- SUNY College of Environmental Science and Forestry, Roosevelt Wild Life Station Honorary Advisory Council Chair

## Selected Honors

- *The Best Lawyers in America*®: Energy Law, 2024; Environmental Law, 2023–2024; Oil and Gas Law, 2024
- Selected to *Super Lawyers* Upstate New York: Environmental, 2010–2019, 2022–2023

## Selected Speaking Engagements

- 63rd General Assembly of the International Council for Game and Wildlife Conservation

## Selected Media

- *Attorney at Law Magazine*, "Energy & Utilities Practice Area Profile: Marcellus Shale"
- *Oil and Gas Financial Journal*, "Marcellus Shale: A Modern-Day Gold Rush"
- Thomson Reuters/Aspatore's *The Legal Impact of Climate Change: Leading Lawyers on Preparing for New Environmental Legislation, Assessing Green Programs for Clients, and Working With Government Agencies on Climate Change Issues (Inside the Minds)*, "Climate Change Issues Affect Corporate Risks and Opportunities" Chapter

## Selected Alerts & Blog Posts

- USFWS Proposes Revision to African Elephant 4(d) Rule
- State of the State: 2020 Energy Landscape in New York