

Energy & Mineral Law Foundation  
Mine Safety & Health Special Institute  
September 20, 2008

## About the speakers . . .

### **Adele L. Abrams**

Adele L. Abrams is an attorney, safety professional and trained mediator who is president of the Law Office of Adele L. Abrams P.C. in Beltsville, MD, a five-attorney firm focusing on safety, health and employment law nationwide. Adele is a certified mine safety professional and she also provides consultation, safety audits and training services to MSHA and OSHA regulated companies.

Adele is a regular columnist for numerous magazines on legal, employment, mine and occupational safety/health issues, and is co-author of several books related to mining, construction and occupational safety and health. She is also on the adjunct faculty of the Catholic University of America, where she instructs on Employment and Labor Law.

She is a member of the Maryland, DC and PA Bars, the U.S. District Courts of Maryland and DC, the U.S. Court of Appeals, DC Circuit, and the United States Supreme Court. She is a graduate of the George Washington University's National Law Center, and earned her B.S. in Journalism from the University of Maryland, College Park. Her professional memberships include the American Society of Safety Engineers, National Safety Council, International Society of Mine Safety Professionals, the National Stone, Sand & Gravel Assn., the Industrial Minerals Association-North America, and the Energy & Mineral Law Foundation.

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### **Robert H. Beatty, Jr.**

Robert H. Beatty, Jr., is a former coal miner with ten years of underground mining experience. Mr. Beatty received his law degree from the West Virginia University College of Law in 1993. During his career in the mine safety and health area Mr. Beatty has served as General Counsel for the West Virginia Office of Miners' Health Safety and Training, and most recently served nearly seven years as a member of the Federal Mine Safety and Health Review Commission in Washington, D.C. Mr. Beatty is currently a Partner in the Morgantown, West Virginia office of Dinsmore & Shohl, LLP where his practice focuses on providing consulting and legal representation for mine operators in matters involving federal and state regulatory actions.

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### **Laura E. Beverage**

Laura E. Beverage is a Member of Jackson Kelly PLLC, and serves as Chair of the Firm's Occupational Safety and Health Practice Group. She is resident in the Denver Office where she

served as the Administrative Manager from 1993 to 2001. She joined the Firm in 1980 after graduating from West Virginia University College of Law where she was elected to the Order of the Barristers. Ms. Beverage represents general industry and mining clients in a variety of matters including compliance issues, policy, legislative and regulatory matters, and civil and criminal enforcement issues, accident investigation, and discrimination claims on both state and federal levels. She has extensive experience involving issues under the Federal Mine Safety and Health Act, Occupational Safety and Health Act, and other state and federal safety and health statutes, including compliance under the Safe Explosives Act and the Surface Transportation Assistance Act.

Ms. Beverage serves on the safety and health committees of a number of state and national trade associations. She is also active in a number of organizations including the American Society of Safety Engineers, National Safety Council, Colorado Safety Association, Colorado Ready Mixed Concrete Association/Colorado Stone Sand & Gravel Association, National Stone, Sand & Gravel Association and the National Mining Association. Ms. Beverage co-chaired the Colorado Mining Association's Safety and Health Committee from 2000 to 2005, is a member of the Board of the Colorado Mining Association, and is Chair of the Colorado Mining Association's Board of Directors for 2008. She is a member of the Rocky Mountain Mineral Law Foundation and serves on the Board of Trustees of the Energy & Mineral Law Foundation. She is listed in the *Who's Who of International Mining Lawyers*, *The Best Lawyers in America*, and was listed in *Colorado Super Lawyers* in 2007 and 2008.

Ms. Beverage has authored several published materials and is a frequent writer and speaker on safety and health topics and has developed innovative training for supervisory employees under the Occupational Safety and Health Act and the Federal Mine Safety and Health Act.

Ms. Beverage has been admitted to practice in Colorado, West Virginia, the D.C. Circuit and the Fourth, Sixth, and Tenth Circuit Courts of Appeals.

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### **Anna M. Dailey**

Anna M. Dailey is a partner in Dinsmore & Shohl, LLP's Charleston, West Virginia office, where she concentrates on litigation, labor and employment law. She represents companies in civil litigation, defense of liability claims, and labor and employment litigation.

In litigation, Ms. Dailey has participated in successfully defending multimillion-dollar claims, and in winning damages for millions of dollars on behalf of represented clients. Ms. Dailey's litigation work includes defending against employment law claims, including wrongful discharge; sexual harassment; age discrimination and whistle-blower claims; representing self-insured companies on liability claims arising from work-related injuries; and prosecuting damage claims against unions for strikes and violence.

In labor law, Ms. Dailey handles union election campaigns; represents companies in collective bargaining; advises companies on labor issues in sale situations; and defends against unfair

labor practices. Her labor law experience includes substantial strike preparedness and strike violence situations. Ms. Dailey advises employers on all facets of labor and employment law including drug testing and drug free policies; represents employers in arbitrations; conducts investigations for companies on questions of employee fraud and sexual harassment claims. She also provides training at in-house seminars for employers and is a frequent speaker on labor and employment issues.

Before joining Dinsmore & Shohl, Ms. Dailey was a partner with Heenan, Althen & Roles, LLP and has been practicing for over 25 years. Ms. Dailey was also an attorney in the Office of the Solicitor of the United States Department of the Interior. In this capacity she regularly advised and represented the Department on regulatory matters dealing with the surface effects of coal mining.

Ms. Dailey graduated from Vanderbilt University (B.A. 1975) and the West Virginia University College of Law (J.D. 1979). Ms. Dailey attended George Washington University's contract disputes seminars in 1983 and West Virginia's first bar mediation training in 1998.

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#### **William K. Doran**

Bill Doran's practice is concentrated in safety and health law and litigation. He advises companies with respect to issues arising under Federal and State Safety and Health Statutes. Bill helps companies in accident investigations, special investigations, audits and discrimination investigations conducted by MSHA, OSHA, and state agencies. He represents companies in litigation before the Federal Mine Safety and Health Review Commission, the Occupational Safety and Health Review Commission and the federal courts. He also represents companies and trade associations on local and national issues within the purview of federal agency administrators.

Bill speaks and writes frequently on a variety of safety and health topics. Most recently, he co-authored the "General Duty Clause" chapter of the *Occupational Safety and Health Law Handbook* published by Government Institutes. He has also authored an article entitled, "Vicarious Liability of Mine Operators for Independent Contractors' Violations" for the University of Kentucky's *Journal of Natural Resources and Environmental Law*.

Bill Doran is a member of the Virginia and District of Columbia Bars.

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#### **Michael F. Duffy**

Michael F. Duffy was sworn in as a member of the Federal Mine Safety and Health Review Commission in December of 2002, and was named Chairman of the Commission by President Bush in February of 2003. He was reconfirmed to a second term in March of this year. Prior to his appointment

to the Commission, Mr. Duffy served as deputy general counsel to the National Mining Association and was responsible for issues ranging from mine safety and health to environmental compliance and public land use. From 1986-1992, he served as counsel to the Chairman of the Review Commission. Mr. Duffy is a member of the District of Columbia Bar and is admitted to practice before the U.S. Supreme Court and several U.S. Circuit Courts of Appeals. He has written extensively on matters relating to labor, administrative, and environmental law.

Chairman Duffy received his B.A. in English, with honors, from the Catholic University of America in 1971, and his J.D. from the National Law Center at George Washington University in 1976. He was born and raised in Butte, Montana, and was employed there in the copper mines while working his way through college.

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### **Edward M. Green**

Edward M. Green is Counsel with the Washington, DC law firm of Crowell & Moring LLP where he specializes in regulatory and legislative matters affecting the mining and natural resources industries. Mr. Green's practice focuses on safety and health matters arising out of the Federal Mine Safety and Health Act of 1977 and the Occupational Safety and Health Act of 1970. He is especially expert on complex occupational health issues relating to respirable dust, diesel particulate matter, silica, other airborne contaminants, occupational noise exposure, and the approval and certification of respirators and mining machinery and equipment.

Mr. Green also advises mining industry and other clients on compliance issues relating to the regulation of explosive materials by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF"). He also advises a variety of clients on compliance issues concerning the National Firearms Act and the Gun Control Act, and the complex regulations, which implement those statutes. In addition to his regulatory and legislative practice, Mr. Green counsels non-profit organizations and trade associations. He is general outside counsel to such diverse organizations as the International Cyanide Management Institute and the U.S. Council for Landcare Initiative, Inc.

Before joining Crowell & Moring in 1993, beginning in 1970 Mr. Green was an attorney at the U.S. Department of the Interior specializing in mining issues. He drafted many of the mine safety and health regulations still in force today. From 1973 to 1975, he served as a special counsel to the Secretary of the Interior, charged with focusing on legal issues relating to the controversial bills being considered by the Congress that were ultimately enacted as the Surface Mining and Control and Reclamation Act of 1977. He received personal recognition for his efforts from President Richard Nixon. He then served as Special Assistant and Chief of Staff to the Administrator of the Mining Enforcement and Safety Administration (predecessor of MSHA), receiving a citation for meritorious service from Interior Secretary Cecil Andrews for that work.

Mr. Green left government service in 1977 to join the American Mining Congress (a predecessor organization to the National Mining Association). At AMC he served as general counsel and secretary. Among his primary responsibilities at AMC were oversight of the Association's work on Executive Branch regulatory matters and management of AMC's extensive litigation program.

Mr. Green has spoken and written extensively on mining topics. He is a past president of the Energy & Mineral Law Foundation, and continues as a trustee of that organization. He received both his BA degree and his JD degree from Boston University under the University's Accelerated Combined Degree Program. Mr. Green is admitted to practice before several U.S. Courts of Appeals and in the District of Columbia.

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### **Mark E. Heath**

Mark E. Heath is a member of Spilman Thomas & Battle, PLLC, in the Charleston, West Virginia office. He concentrates his practice in safety issues, litigation and labor and employment law.

His work involves both federal and state court actions, as well as administrative cases before federal and state agencies. Mr. Heath represents employers on matters pertaining to the Mine Safety and Health Administration, the Occupational Safety and Health Administration, and state safety agencies with respect to interpretations of regulatory requirements, significant citations and orders, accident investigations, special investigations, and employment discrimination issues related to safety. Mr. Heath regularly tries cases before Federal Mine Safety and Health Review Commission ALJs and before state mine safety boards in Kentucky and West Virginia.

Mr. Heath serves as Treasurer for the Energy & Mineral Law Foundation and has been a frequent speaker at Foundation programs on mine safety law, Annual Institutes and Mineral Law Conferences.

From 1987 to 1989, Mr. Heath was a Captain with the United States Army Judge Advocate General's Corps, practicing in the area of criminal justice, administrative law and labor and employment law. Mr. Heath graduated from the University of Kentucky College of Law (J.D. 1986). He did his undergraduate work at Western Kentucky University (B.A. cum laude, 1983).

Mr. Heath is a member of the bars of Kentucky and West Virginia. He is admitted to practice before the Supreme Courts of West Virginia and Kentucky, various U.S. District Courts, as well as the United States Courts of Appeals for the Fourth and Sixth Circuits, and the U.S. Supreme Court.

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## **Phil Inglima**

Phil Inglima is Co-Chair of Crowell & Moring's White Collar & Securities Litigation Group. He has litigated a broad range of criminal and civil matters in trial and appellate courts, with an emphasis on criminal frauds and parallel civil and regulatory enforcement proceedings. He also has substantial experience in handling congressional investigations and professional responsibility proceedings. His clients have ranged from public corporations to individuals and closely-held entities. In recent years, he has represented clients in several of the most prominent federal white collar controversies.

Prior to joining Crowell & Moring, Phil's extensive white collar experience included nearly two years of service as a Senior Associate Independent Counsel in the investigation of then-Secretary of the Interior Bruce Babbitt. On that probe, Phil led a team examining allegations of perjury, bribery, improper influence peddling and campaign finance fraud involving national political organizations and numerous high legislative and executive offices. This role drew upon his experience representing government officials and businessmen in public corruption prosecutions during his more than eight years in private practice with Plato Cacheris.

Over the past two decades Phil has represented business clients in a variety of internal investigations and grand jury probes. He has assisted in the development and implementation of compliance programs, and has guided clients through regulatory reporting processes. His clients have ranged from closely-held entities to public corporations, from accountants and their partnerships to attorneys and law firms. His practice has ranged from matters pursued under the wire, mail, tax and securities fraud statutes, to export control, money laundering and conflict of interest laws, and criminal environmental and OSHA prohibitions.

Phil has tried criminal and civil cases in both federal and state courts. He has argued federal appeals and post-judgment petitions, participated in arbitrations and mediations, and has represented multiple clients in connection with professional responsibility proceedings. Phil has been recognized by clients and peers as a leading lawyer in *Chambers USA* in the areas of Litigation and White Collar Crime & Government Investigations, and *Super Lawyers* rated him one of the Top 100 Lawyers in DC in 2007. In addition, he was selected by *The Best Lawyers In America 2008* for White Collar Criminal Defense.

A 1984 graduate of Georgetown University's College of Arts & Sciences and a 1988 graduate of its Law Center, Phil remains actively involved in the University's affairs. He presently serves as President of Georgetown's Alumni Association and sits on the University's Board of Directors. He also is an Adjunct Professor of Law at Georgetown Law Center, where he teaches a course in Federal White Collar Crime.

Phil began his career as law clerk to the Honorable June L. Green of the U.S. District Court for the District of Columbia. He is a member of the state and federal bars of DC, New York and New Jersey, and the U.S. Supreme Court. Phil is also an active volunteer in the DC Bar, and having recently chaired the Criminal Law steering committee, the Council on Sections and the Nominations Committee. He is a member of The Barristers and The Lawyers Club of Washington.

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**Karen L. Johnston**

Karen L. Johnston is a Member of Jackson Kelly PLLC and is located in the Denver office. Her practice focuses on occupational safety and health and related civil and administrative litigation. Ms. Johnston handles all aspects of the defense of safety and health cases involving both MSHA-regulated and OSHA-regulated facilities and is familiar with issues arising under the Safe Explosives Act. Her practice also encompasses administrative and judicial litigation, including MSHA and OSHA enforcement actions.

Ms. Johnston authored "The Federal Mine Safety and Health Act of 1977: Is It Suffering from a Mid-Life Crisis?", published in the 2001 Denver University Law Review (Vol. 78, No. 3), and "How to Live in Legal Harmony with Independent Contractors," published in the December 1999 and January 2000 issues of Aggregates Manager. Ms. Johnston is also the co-author of "Part 46 One Year Later: Pass or Fail," published in Stone, Sand & Gravel Review, November/December 2001, "Communication with a Government Agency Represented by Counsel: Where Does the Ethical Boundary Fall?" published in the Proceedings of the Twenty-Fifth Annual Energy and Mineral Law Institute, and "Mine Safety and Health Law," published in Part I of the Industrial Minerals and Rocks 7th Edition. Ms. Johnston conducts seminars and training sessions on safety and health enforcement and discrimination topics under various state and federal acts. Additionally, she also presents on safety and health topics to various organizations, including the National Stone, Sand & Gravel Association and various state safety councils and associations, and is a regular guest lecturer at the University of Denver Law School.

Ms. Johnston is a graduate of the University of Denver where she received her B.A. degree, cum laude, in 1986, and earned her J.D. degree from the University of Pennsylvania in 1989. She is licensed to practice law in the states of Colorado and Pennsylvania, and is admitted to practice before the United States District Court in Colorado and the United States Courts of Appeals for the District of Columbia and the Third and Tenth Circuits. Ms. Johnston is a member of the Colorado and Denver Bar Associations, as well as numerous state and national mining and health and safety organizations.

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**Margaret S. Lopez**

Ms. Lopez' practice is concentrated in occupational safety and health, non-profit associations, employment law and employee benefits.

Ms. Lopez represents employers in federal court cases concerning employment issues and ERISA benefit plan obligations. She also defends and advises companies in federal safety regulatory matters, including issues arising under the Occupational Safety and Health Act and the Federal Mine Safety and Health Act. She also regularly counsels corporations, trade associations and professional societies on a wide variety of topics including employment law,

organizational governance, contracts, government relations and homeland security-related matters.

Ms. Lopez received her law degree with Honors from the George Washington University Law School where she was an editor of The George Washington Journal of International Law and Economics. Ms. Lopez also holds a Masters Degree in National Security Studies from Georgetown University and an undergraduate degree with Distinction from the University of Virginia.

Prior to entering the practice of law, Ms. Lopez worked for seven years for the Department of Defense, where she specialized in computer and telecommunications security.

Ms. Lopez is admitted to practice in the state of Maryland and the District of Columbia.

She is a member of the American Society of Association Executives, Society for Human Resources Management, Maryland State Bar Association, District of Columbia Bar Association, and the American Bar Association.

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#### **Mark A. Malecki**

Since 2002, Mark Malecki has been Counsel for Trial Litigation at the U.S. Department of Labor, Office of the Solicitor, Division of Mine Safety and Health since 2002. Mark Malecki started working in the Arlington Associate Regional Solicitor's office in 1982 and remained there until 1990. In 1991 and 1992 and from 1994 to 2002, he worked as a trial lawyer in that Division of Mine Safety and Health handling many important safety, health and discrimination cases, as well as investigative matters. Mark Malecki graduated from Georgetown University Law Center in 1981 and received a B.A. from the University of Wisconsin Milwaukee in 1978. He is a member of the Illinois, Maryland and District of Columbia Bars.

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#### **R. Henry Moore**

R. Henry ("Hank") Moore is a Member of Jackson Kelly PLLC and is resident in the firm's Pittsburgh, Pennsylvania office.

Mr. Moore is a member of Jackson Kelly's wide Occupational Safety and Health Practice Group. His practice is primarily concentrated in the areas of compliance counseling, litigation of civil and criminal enforcement matters, accident investigation and discrimination claims under both state and federal statutory provisions. His career in occupational safety and health law commenced in 1978, and he has counseled clients in a variety of industries including coal mining, metal and nonmetal mining, stone, sand and gravel operations, construction, heavy industry such as steel production and foundries, airlines and other service industries.

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**Marco M. Rajkovich, Jr.**

Marco Rajkovich is a member of the Lexington, Kentucky law firm of Rajkovich, Williams, Kilpatrick & True, PLLC and concentrates his practice in the areas of mine safety and health, mineral and energy and administrative law. He is a Licensed Professional Engineer – Mining, a Licensed Professional Land Surveyor and Certified Underground Mine Foreman in Kentucky. Prior to his law career, he was with U.S. Steel Mining Company, Inc. serving in various positions in engineering as well as production.

Marco is a 1977 graduate of the University of Kentucky College of Engineering where he earned a Bachelor of Science degree in Civil Engineering with the Mining Option and was a member of Chi Epsilon Civil Engineering Honorary. He is a 1987 graduate of the University of Kentucky College of Law where he was a member of the Journal of Mineral Law & Policy.

Marco is an author and frequent speaker at various mining industry conventions, meetings and seminars and a guest lecturer at the University of Kentucky College of Engineering, College of Law and the Chase Law School of Northern Kentucky. He is a contributor to *The Coal Mining Reference Book* (1997) and co-author of *The Kentucky Environmental Law Handbook, Government Institutes* (1991, 1993). Marco is authorized by the Kentucky Board of Licensure of Professional Engineers and Land Surveyors as an instructor on ethics and minimum technical standards and has given national presentations on ethics for the National Society of Professional Engineers.

Throughout his career, Marco has been involved in representation of mining and land-holding companies in several mine explosions, disasters, major accident litigation and mineral law issues in both federal and Kentucky state courts, and administrative tribunals, some of which have gained national prominence. He has argued cases in front of the Federal Mine Safety and Health Review Commission and the Court of Appeals of Kentucky.

Marco has served as an officer and director of the Kentucky Engineering Foundation, a member of the Executive Committee and Trustee of the Energy & Mineral Law Foundation, Co-Chair of the Justice Committee of the Kentucky Appalachian Advisory Council, Chair of the Governance Committee and member of the Financial Council for the Catholic Diocese of Lexington, a lifetime appointee as Defender of the Bond for the Tribunal of the Catholic Diocese of Lexington, Kentucky, Assistant Section Director of Regnum Christi, Emeritus Member of Legatus, director of Thy Kingdom Come Network, six-time recipient of the President's Award for the Kentucky Society of Professional Engineers, Chair of the Professional Engineers in Mining Practice Group of KSPE, named in *Best Lawyers in America*, member of the Kentucky Geological Survey Advisory Board, the NRCC Business Advisory Council 2005 Honorary Chairman for Kentucky, the NRCC 2005 Business Man of the Year, a Kentucky Bar Association Lifetime Fellow, and a member of several national, state and local mining industry organizations.

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**Heidi W. Strassler**

Heidi Strassler graduated with a Bachelor of Arts Degree with Honors from the University of Maryland, and received a Juris Doctor degree from Temple University School of Law. She has been admitted to practice law in West Virginia, Pennsylvania and Maryland.

Mrs. Strassler came to the U. S. Department of Labor after working with the West Virginia Legal Services Plan, Inc. as a managing attorney in the Plan's Litigation Unit where she did trial and appellate work in Huntington and Charleston, West Virginia.

She has done trial litigation and regulatory work while working for the Office of the Solicitor, Mine Safety and Health Division, Department of Labor. In addition to working on rulemaking projects for the Mine Safety and Health Administration, she was the legal advisor to an advisory committee chartered by the Secretary of Labor to provide recommendations concerning the use of diesel powered equipment in underground coal mines. She also provided legal support during the Agency's investigation of several coal mine accidents. Mrs. Strassler was the Mine Safety and Health Division Counsel for Standards and Legal Advice from 1999 to 2006, and now serves as the Deputy Associate Solicitor for the Division.

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**Noelle Holladay True**

Noelle Holladay True practices primarily in the areas of mineral & energy and commercial litigation. Her primary focus area is Mine Safety and Health Administration work.

Ms. True is a member of the Energy & Mineral Law Foundation, the Kentucky Coal Association, Coal Operators & Associates, the Women Lawyers Association, the Lexington Young Professionals Association, and the Fayette County, Kentucky and American Bar Associations. She serves on the Board of Directors for the New Opportunity School for Women in Berea, Kentucky and also for the Friends of Raven Run. Ms. True was a recipient of the 2004 Lexington Young Professionals Association "Rising Star Award."

She received her B.S. degree with Honors in Finance from Indiana University in 1997 and graduated Order of the Coif in 2000 from the University of Kentucky College of Law. In law school, Ms. True was a member of the Kentucky Law Journal, in which she authored an article entitled "The Limited Fiduciary Duties Owed by Corporate Managers to Preferred Shareholders: A Need for Change."

Recently, she has made presentations on topics of interest at mineral and energy law seminars throughout the state.

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**Daniel W. Wolff**

Daniel W. Wolff maintains a broad practice that involves appellate, trial, and administrative counseling on a number of areas of environmental and natural resources law, including climate change, Superfund, land-use rights, and mine safety and health. He has authored or co-authored briefs in the U.S. Supreme Court and a number of federal appellate courts. As a litigator and specialist in the firm's Environmental & Natural Resources Group, he has also appeared on behalf of the firm's clients in matters arising in federal district court, and in his administrative practice he has represented clients before a number of federal agencies, including the Departments of Labor, Interior, and Agriculture, and the Federal Mine Safety and Health Review Commission. Dan also has an active pro bono practice in a wide variety of areas, including asylum, habeas corpus, landlord-tenant, and fair wages, and on such matters he has appeared in the federal courts, the U.S. Immigration Court, and the courts of Maryland and the District of Columbia.

Dan graduated from the University of Wisconsin in 1992, where he earned a B.A. from the School of Journalism. He earned his law degree at the University of Dayton School of Law, from which he graduated *summa cum laude* in 2001. While in law school, Dan served as an editor on the *University of Dayton Law Review*, and was active with the Environmental Law Society. Immediately following law school, he clerked for two years in the Southern District of Ohio for the Honorable Walter H. Rice.

Dan is a member of the District of Columbia and Ohio Bars, as well as the bars of several federal courts.

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