

St. Louis Lawyer

September 2013 | Volume 52



Ryan Russell Kemper,
Chair of the Environmental
Law Committee

The beauty of handling appeals, **p 8**

Mapping out law office locations, **p 11**

Environmental law: always a challenge, **p 12**

Plaintiff firm works environmental cases, **p 14**



The Official Publication of The Bar Association of Metropolitan St. Louis

Environmental and Conservation Law Committee seeks to keep practitioners informed.

by Chuck Ramsay

Ryan Russell Kemper, “Rusty” to some of his peers at Thompson Coburn, is this year’s Chair of BAMSLS’s Environmental and Conservation Law Committee, moving the Committee forward from the great job Paul Sonderegger did as the previous Chair. And because Kemper’s view of environmental law is wide ranging and diverse, it appears that participation in this committee will continue to offer some very good experiences to members who practice environmental law now, or could see this as an expansion of their current practice area.

Kemper grew up in Southern Illinois surrounded by expansive farmland and scattered forests with his grandparents’ farm as a backdrop to daily life. Until his retirement a few years ago, Kemper’s father was a wildlife biologist for the Illinois Department of Natural Resources. “If you spend time with my dad, you’re going to learn something about the natural world that you didn’t know before,” said Kemper. Interested initially in journalism when he went to college at the University of Missouri-Columbia, he quickly ended up trading the “J” School track for degrees in biology and political science. Shortly after that, he won an Illinois General Assembly scholarship, a legislative leadership program that provided a wealth of first-hand knowledge about public policy, politics, and legislative rules.

Kemper worked one full year in the internship, then another year full time for the Illinois State Senate. “I got the chance to be there when President Obama was still a State Senator,” he said. “And, I had a position with the Rules Committee where I was on the floor of the Senate every day—I saw a lot of interesting things happen. Besides the occasional yelling and screaming that makes headlines, I often got to see some actual good natured bi-

partisanship between legislators.”

In this role, he also staffed the Environment and Energy Committee, and that is where Kemper realized he was interested in working on environmental issues as a career. Shortly after that, Kemper was off to law school at Washington University in St. Louis, where he served as Editor-in-Chief of the *Washington University Law Quarterly* (now the *Law Review*) and published on one of his other environmentally-related interests—emergency preparedness and response.

“One of the beauties of environmental law is that you get to touch a lot of different areas of law,” he said. “When you’re an environmental lawyer, anything that has an environmental issue in it may end up on your desk—whether it’s in the context of a contract dispute, a bankruptcy—all those issues get thrown in that you might get a chance to work on as well,” Kemper explained. “And that’s great for us because, like most lawyers, we don’t like doing the same thing all the time.”

Hardly a day goes by when there

“So the next time you spot that small, circular Recycle logo on a coffee cup, see the car commercial about higher miles per gallon, or hear a news anchor shouting about a just discovered pipeline rupture, we all know that a cadre of environmental law attorneys will be or have been involved in some aspect of those events – from all points of view.”

Now in his eighth year at Thompson Coburn (TC), Kemper says he really enjoys his legal work on environmental issues and cases. The TC environmental practice group consists of seven partners, a full time senior advisor (an engineer and former Vice President at Solutia), and five to six associates, plus support staff. Because of the nature of environmental law, Kemper says that in addition to litigation and regulatory matters, he also gets involved in corporate real estate, due diligence, corporate compliance and aspects of mergers and acquisitions too.

isn’t something in the news about an environmental issue—from climate change, to controversies about the power and leadership of various government agencies, what to do about toxic site cleanup, how to best protect our air and water, who is responsible for the latest environmental catastrophe, or whether or not Americans should invest in alternative energy sources and move away from carbon fuels. The list goes on, and gets much longer and more detailed involving both business interests and individual citizens. It’s not only a long

list, but increasingly complex as Kemper points out.

"For example, in the case of a Superfund Site, it's not always clear what position you're in. Superfund—the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)—is all about cost recovery and clean up. And so the government assigns responsibility to a party and says, 'You're an owner, an operator, arranger, or transporter of whatever ended up there'. Or, 'You're a successor company to a successor to a successor that operated there in 1895, so, as a result, you're responsible.' Superfund is litigation-based, unlike any of the other Federal statutes, like the Clean Water Act and the Clean Air Act, which are regulatory based. The result is that as an environmental lawyer, one could occupy a couple of different places in that chain of command. You could be the party that is being sued by another private company for cost recovery, or you may be a defendant, a third party defendant, or a plaintiff that is suing for contribution." Kemper then added, "In some cases, your interests are even aligned with the government's interests against other parties. That diversity is what makes those sites and cases interesting."

When asked his take on what is one of today's hottest environmental law topics, Kemper shifts to the topic of the Committee's first featured event.

"It's going to be about hydraulic fracturing (fracking) and that's a very hot topic right now," he said. "About a month ago the Governor of Illinois signed into law a new piece of legislation that will regulate fracking in the state, and so our presentation topic at our first committee meeting is going to discuss hydraulic fracturing, and we're going to do it jointly with the St. Louis Regional Chamber's Environmental Committee. One of our speakers is someone who was really involved in the negotiations over the new regulations in Illinois."

Kemper also believes the Committee has a lot to offer area lawyers in terms of the experience of its members. The St. Louis area has a long history of well-known cases such as the Times Beach

dioxin contamination, the Sauget area Superfund Site and now the worrisome Bridgeton Landfill situation, which presents multiple environmental concerns and undoubtedly an abundance of future litigation.

So, is this a practice area that is growing? Kemper believes so because we'll always have more than enough environmental challenges to deal with. But he also feels they will be dealt with in a slightly different way. "A lot of it is dealing with the transaction costs and externalities of modern life. We all create issues every day that environmental lawyers deal with. When you recycle, or when you just throw away your trash, it has to go somewhere. Our consumerism culture generates a terrific volume of legal issues—from the electronic products we use, especially those with precious metals and toxic components, to the kind of cars we choose to drive," he said. And then there is the topic of energy. "And so that's all part of the debate. If I had to sum it up in one nugget, though, energy would be the thing that is driving the agenda right now," he said, "and will be for a while."

Participation is the key to great programs within any organization and that's certainly true at BAMSL. Kemper is trying to dispel the notion that his Committee is only for seasoned environmental attorneys. He believes the topics the Committee will focus on will also be of interest to transactional attorneys who need to keep up with the changing face of regulations and recent Supreme Court decisions. Similarly, corporate counsel have a huge stake in getting together to exchange ideas and hear about environmental and energy topics, and to see what others are working on from time to time.

Kemper is also working on developing an event where experienced attorneys share their war stories with younger lawyers in a question-and-answer type forum. The dynamic would be, "Here's how we did it, here's what happened, here's the story behind the case," he shared.



Ryan Kemper stands in front of a solar array on the roof of the Schlafly Bottleworks in Mapelwood, Mo. The units provide some of the electricity for the brewery-restaurant and yield valuable tax credits too. Access to this site courtesy of Tom Schlafly and Tom Flood.

So the next time you spot that small, circular Recycle logo on a coffee cup, see the car commercial about higher miles per gallon, or hear a news anchor shouting about a just discovered pipeline rupture, we all know that a cadre of environmental law attorneys will be or have been involved in some aspect of those events—from all points of view.

The first speaker's event of the Environmental and Conservation Law Committee is scheduled for October 15, 2013, at the St. Louis Regional Chamber's conference center at One Metropolitan Square, Suite 1300. Visit www.bamsl.org and click on the Calendar icon to find full information on this and other Committee-Section opportunities. Remember, participation in BAMSL Sections and Committees is covered in your annual dues, so take advantage of them. ■