



## Gordon C. Duus

Partner

✉ [gduus@mblawfirm.com](mailto:gduus@mblawfirm.com)

☎ (973) 243-7956

### Overview

Gordon Duus is a Partner and co-chair of the firm's Environmental Law Practice Group.

His practice includes handling the environmental aspects of the firm's numerous real estate and commercial transactions. This includes representing clients who are buying, selling, leasing and financing real estate, with an emphasis on managing the issues arising from properties contaminated by, or potentially contaminated by, hazardous substances. He also has extensive experience assisting clients who are involved in the purchase or sale of stock or assets, including mergers and acquisitions. As described in greater detail in "Experience," Gordon has assisted numerous firm clients with obtaining and negotiating environmental insurance, handling site cleanup, obtaining development permits, complying with environmental regulations, advising on alternative energy projects, and providing expert witness testimony.

Gordon is rated AV Preeminent by Martindale-Hubbell, their highest level of peer recognition available, for his professionalism and the quality of his legal work. He was also selected by his peers for inclusion in The Best Lawyers in America list and New Jersey Super Lawyers list in the area of Environmental Law.\*

*\*No aspect of this advertisement has been approved by the Supreme Court of New Jersey or the American Bar Association. A description of the standard or methodology used by [Super Lawyers](#), [Best Lawyers](#) and [Martindale-Hubbell](#) can be found on their respective websites.*

### Experience

Gordon Duus' practice is multi-faceted and includes extensive experience in the following:

**Transactions.** Gordon has handled the environmental aspects of thousands of real estate and commercial transactions. This includes representing clients who are buying, selling, leasing and financing real estate, with an emphasis on managing the issues arising from properties contaminated by hazardous substances. He also has extensive experience assisting clients that are involved in the purchase or sale of stock or assets, including mergers and acquisitions. When the cost of an ongoing cleanup is a significant obstacle to closing a transaction for a client, he has negotiated numerous guaranteed cleanup cost contracts with environmental consultants, where the consultant accepts the risk that the cleanup will exceed the guaranteed cleanup cost.

**Environmental Insurance.** Gordon has assisted clients with the purchase of environmental insurance policies for over 200 properties. These policies provide coverage for the cost to clean up newly discovered pollution conditions on a property, as well as for third party lawsuits for property damage and bodily injury. He has also represented numerous clients in the negotiation and purchase of cost cap coverage, which provides coverage if the cleanup

costs exceed an agreed upon cost. Often these insurance policies were used as part of an effort to help a transaction proceed to closing.

**Cleanup Oversight.** Gordon has substantial experience handling matters involving the federal Superfund law, New Jersey's Industrial Site Recovery Act, underground storage tank laws and other laws requiring the remediation of contaminated property. He has obtained Brownfields approvals allowing clients to obtain state funds to pay for the remediation of their properties.

**Development Permits.** Gordon advises developers of industrial, commercial and residential real estate on how to obtain the permits needed to develop in areas subject to governmental regulation, such as freshwater wetlands, coastal areas, floodways, the New Jersey Highlands, the Pinelands, the Hackensack Meadowlands and riparian lands.

**Cleanup Cost Recovery.** Gordon counsels clients who have paid or are paying for the cleanup of contaminated properties on how to avoid incurring cleanup costs or to recover those costs from both other parties that are responsible for the contamination and insurance companies.

**Regulatory Compliance.** Gordon regularly counsels clients on how to comply with a wide variety of environmental laws, including those governing solid waste, hazardous waste, air pollution, water pollution. He has represented many clients in the defense of enforcement actions brought by federal and state environmental agencies, including the New Jersey Department of Environmental Protection. He also has extensive experience assisting clients in complying with California Proposition 65.

**Expert Witness.** Gordon has been named as an expert witness on environmental issues, testifying on behalf of plaintiffs or defendants in the following six lawsuits:

**PPG Industries, Inc. v. Greenberg Property, LLC** New Jersey Superior Court, Law Division, Hudson County (2015)

Named as an expert witness for a property purchaser on the issue of whether the purchaser's pre-closing knowledge of chromium contamination on the property provided implied consent for the demolition of purchaser's building in the course of the responsible party's site remediation.

**Menlo Acquisition Corporation v. Environmental Logic Corporation of New Jersey, Inc.** New Jersey Superior Court, Chancery Division, Morris County (2015)

Named as an expert witness for an environmental consulting firm that was sued by another environmental consulting firm for misuse of alleged trade secrets.

**Harrison Redevelopment Agency v. Harrison Eagle, LLP** New Jersey Superior Court, Law Division, Hudson County (2010)

Named as expert witness for condemnor in a condemnation case on the issue of whether and to what extent the property value to be paid to the condemnee should be discounted because of the environmental condition of the condemned property. Testified several days before three arbitrators.

**Koffman v. Haveson** New Jersey Superior Court, Law Division, Mercer County (2007)

Named as expert witness for defendant in legal malpractice case involving the seller's attorney's alleged failure to disclose lead contamination to the buyer of real estate.

**Grubbs v. Knoll** New Jersey Superior Court, Law Division, Passaic County (2001)

Named as expert witness for defendant in legal malpractice case involving issues arising under the Freshwater Wetlands Protection Act. Testified for two days of jury trial.

**Caiola v. Berry, Kagan & Sahradik** New Jersey Superior Court, Law Division, Ocean County (1999)

Named as expert witness for plaintiff in legal malpractice case involving issues arising under the Coastal Area Facility Review Act.

**Energy.** Gordon has assisted clients with various energy projects, including solar power projects, both roof and ground mounted, and natural gas leases.

## Professional Affiliations

- American Bar Association
- New Jersey State Bar Association
- Essex County Bar Association

## Publications

- [“Using Insurance to Close Real Estate and Commercial Transactions,”](#) article in Spring 2015 Primerus Paradigm. “Using New Jersey Spill Act Safe Harbor to Protect Lenders”: article in the September 2013 edition of the “Environmental Claims Journal”.
- “Using Insurance to Manage Environmental Risk in Transactions”: article in December 7, 2011 edition of the “New Jersey Law Journal”.
- “NJ Acts to Reduce Nutrient Pollution in Barnegat Bay”: article in the February 28, 2011 edition of the “New Jersey Law Journal”.
- “Incentives Drive Expanded Use of Solar Energy in New Jersey”: co-authored article in December 13, 2010 edition of the “New Jersey Law Journal”.
- “Guaranteed Cleanup Cost Contracts: A Keystone for Contaminated Property Deals”: article in the February 20, 2009 edition of the “New Jersey Law Journal”.
- “Reporting Historical Contamination”: co-authored article in the February 16, 2004 edition of the “New Jersey Law Journal”.
- “Environmental Aspects of Residential Real Estate Transactions”: section of Fifth Edition of Arthur S. Horn’s Treatise entitled “Residential Real Estate Law and Practice in New Jersey”, published in 2003 by the New Jersey Institute for Continuing Legal Education.
- “Environmental Law Issues in Commercial Leases: Sometimes It Takes a Creative Approach”: article in March 20, 2000 edition of the “New Jersey Lawyer”.
- “Environmental Insurance Saves Deals for Contaminated Properties”: article in June, 1999 edition of “New Jersey Law Journal”.
- “Using Government Funds for Environmental Cleanups”: co-authored article in October 25, 1999 edition of the “New Jersey Law Journal”.
- “Environmental Aspects of Residential Real Estate Transactions”: section of Fourth Edition of Arthur S. Horn’s Treatise entitled “Residential Real Estate Law and Practice in New Jersey”, published in 1998 by the New Jersey Institute for Continuing Legal Education.
- “New Legal Requirements for Lead-Based Paint in All Pre-1978 Residences”: article in January-March, 1997 edition of “The Bergen Barrister”.
- “Tax Relief Available to Revitalize Contaminated Property”: article in February 26, 1996 edition of the “New Jersey Law Journal”.
- “To Avoid Environmental Liability, Save Your Insurance Policies”: article in May-June, 1995 edition of “The Bergen Barrister”.
- “The Obligation to Report Historical Contamination in New Jersey”: article in the June 6, 1994 edition of the “New Jersey Law Journal” and the July-August, 1994 edition of The Bergen Barrister.
- “The Impact of Underground Storage Tank Regulations on Real Estate Deals”: article in October 1993 edition of “ECON, The Environmental Magazine for Real Property Hazards”.
- “The Impact of Underground Storage Tank Laws on Real Estate Transactions”: article in May 1993 edition of “Skylines” magazine.

- “Underground Storage Tank Complications in Property Deals Do Have Solutions”: article in March 12, 1993 edition of “Tri-State Real Estate Journal”.
- “Environmental Aspects of Residential Real Estate Transactions”: section of Third Edition of Arthur S. Horn’s Treatise entitled “Residential Real Estate Law and Practice in New Jersey”, published in 1992 by the New Jersey Institute for Continuing Legal Education.
- “Underground Tank Rules Range Wide and Deep”: co-authored article in October 25, 1990 edition of the “New Jersey Law Journal”.
- “Underground Storage Tank Update”: co-authored article in March/April 1990 edition of “Journal of Property Management”.
- “How the Law Parcels Liability”: article in February 1990 edition of the “Carlson Report”.
- “Environmental Issues Here to Stay in Real Estate”: article in January 29, 1990 edition of “Crain’s New York Business”.
- “The Impact of Wetlands Laws in New Jersey”: article in January 1990 edition of “Better Buildings” magazine.
- “Environmental Audits: Preventative Medicine for a Sick Building”: co-authored article in Fall 1989 edition of “Real Estate Finance Journal”.
- “Environmental Laws Affect Land Value”: article in July 21, 1989 edition of “Tri-State Real Estate Journal”.
- “Indoor Pollution: The Legal Side”: article in May/June 1989 edition of “Development” magazine.
- “Wetlands Regulation”: section of Second Edition of Arthur S. Horn’s Treatise entitled “Residential Real Estate Law and Practice in New Jersey”, published 1989 by New Jersey Institute for Continuing Legal Education.
- “State Drowns Development in Wetlands Paperwork”: article in February 1989 edition of “Executive Business Magazine”.
- “Environmental Laws and Their Impact on Properties in 1989”: article in January 1989 edition of “Better Buildings” magazine.
- “Wetlands Subject to Further Restrictions”: article in January 9, 1989 edition of “Constructioneer” magazine.
- “The Need for an Environmental Investigation Before Buying or Leasing Real Property”: article in September 1988 edition of “The Chronicle” magazine.
- “Developments During 1987 in the Law Concerning Solid and Hazardous Waste”: contributing author for article in “Natural Resources Law” – 1987, published by The American Bar Association, Section of Natural Resources Law.

## Published Decisions

“Allocating Environmental Risk in Commercial and Real Estate Transactions”: moderator and presenter of seminar given October 29, 2014 to the Association of Corporate Counsel at their annual meeting in New Orleans, LA.

“Hot Topics in LSRP Cleanups & Contaminated Property Transactions”: presenter of three seminars given in March, 2012 to the Essex County Bar Association, Union County Bar Association and Bergen County Bar Association.

“Mandatory LSRP Update & Roundtables with Industry Experts”: presenter of roundtable discussion given on February 17, 2012 for the National Association of Industrial and Office Properties.

“Environmental Land Use Permits in New Jersey”: moderator and presenter of seminar given on May 22, 2008 as part of the Breakfast with Cole Schotz seminar series.

“Real Estate and Commercial Transactions Involving Contaminated Properties”: moderator and presenter of seminar given on May 12, 2005, October 12, 2006, October 11, 2007 and October 14, 2008 as part of the Breakfast with Cole Schotz seminar series.

“Transactions Involving Contaminated Property in New Jersey”: moderator and presenter of seminar given in 2005 as part of the Bergen County Bar Association lunchtime seminar series.

"Transactions Involving Contaminated Property in New Jersey": presenter at full day seminar given in 2006, 2005, 2004 and 2003 for Lorman Education Services. Topics presented included marketing contaminated property, mechanisms for getting the deal done, guaranteed cleanup cost contracts, environmental insurance, and brownfields funding and other public funding sources.

"Transactions Involving Contaminated Properties: Use and Benefits of Environmental Insurance": given on December 3, 2002 to the New Jersey State Bar Association, Banking Law Section.

"Strategies for Avoiding and Recovering the Cost of Environmental Remediation": faculty coordinator of half day program sponsored by Cook College of Rutgers University on May 2, 2001, May 2, 2000, April 27, 1999; March 27, 1998 and June 3, 1997.

"Short Course on Underground Storage Tanks": on faculty of full day or two-day program sponsored by Cook College of Rutgers University on 38 occasions from 1991 to 2002. Lectured on underground storage tank laws and regulations. This course was approved by the New Jersey Department of Environmental Protection, so that attendance satisfied the legal requirement for certification to perform underground tank services in New Jersey.

"Environmental Issues in Real Estate and Commercial Transactions in New Jersey": lecturer in two-day program on New Jersey Environmental Law Compliance sponsored by Government Institutes, Inc. on November 14 and 15, 1995.

"Seminar on Residential Oil Tanks": given on October 11, 1994 for Prudential Zinn Realtors.

"Handling Underground Storage Tank Issues in Real Estate Transactions": given on April 21, 1994 to real estate brokers at Schweppe & Co.

"Industrial Site Recovery Act Compliance": given March 18, 1994 for the Bergen County Bar Association.

"Environmental Issues Affecting Residential Real Estate": given February 18, 1994 to the West Essex Board of Realtors.

"The New Industrial Site Recovery Act: Goodbye ECRA?": given September 11, 1993 for the Bergen County Bar Association.

"Key Issues in Environmental Litigation in New Jersey": on faculty of full-day program, given March 26, 1992, by National Business Institutes. Gave presentation on "Protection of Internal Environmental Audits from Use in Criminal Prosecutions" and "Unresolved Issues in the Trial of Insurance Coverage Cases."

"How Underground Storage Tank Regulations Affect Tank Contractors": given December 11, 1991 to the Petroleum Equipment Contractors Association of New Jersey.

"How ECRA and Other Environmental Laws Affect Real Estate and Commercial Transactions in New Jersey": given September 25, 1990 to the Bergen Commercial Bank Workshop for Certified Public Accountants.

"How Environmental Laws Affect the Sale, Purchase, Lease or Mortgage of Real Estate Nationwide": given September 14, 1989 to the International Association of Corporate Real Estate Executives (NACORE), Mid-Atlantic Conference.

"Effect of Environmental Contaminants on the Value of Real Estate": given June 3, 1989 to the American Society of Appraisers.

"Indoor Air Pollution": given October 28, 1988 to the International Association of Corporate Real Estate Executives (NACORE), New York City Chapter.

"Effect of Environmental Laws on the Sale, Purchase or Lease of New Jersey Real Estate": given May 26, 1988 to

International Association of Corporate Real Estate Executives (NACORE), New Jersey Chapter.

“How to Comply with the Environmental Cleanup Responsibility Act”: given January 8, 1988 to the New Jersey State Bar Association.

“What Automobile Dealerships Must Do To Comply With Environmental Laws”: given November 19, 1987 to the Essex County Automotive Trade Association.

“Legal Issues Involving Radon”: given September 29, 1987 to the Livingston League of Women Voters.

“How Environmental Laws Affect the Value of New Jersey Real Estate”: given September 17, 1987 to the American Institute of Real Estate Appraisers.

## Areas of Practice

[Environmental Law \(Co-Chair\)](#)

[Construction Law](#)

## Admission

- District of Columbia 1981
- State of New Jersey 1982
- State of California 1987
- U.S. District Court, District of Columbia 1981
- United States Supreme Court 1987

## Education

- George Washington University Law School, J.D. (with honors)
- University of Pennsylvania, B.A. in Marine and Freshwater Biology, *Magna Cum Laude*