



## David K. McCay

Partner

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## Overview

As an avid cyclist and bike racer since his teens, Dave knows that litigation, like any endurance sport, requires training, preparation, and discipline.

Dave represents property owners, real estate developers, commercial landlords and tenants, municipalities, and businesses and business owners in environmental cases involving contaminated properties and related enforcement matters, real estate, and zoning disputes, and in cases involving commercial contracts, shareholder disputes, and insurance coverage disputes.

He also represents property owners, developers and municipalities in local land use permitting matters.

## Experience

- Successfully represented the municipal owner of the then-largest solid waste landfill in Massachusetts in federal and state groundwater contamination claims involving 1-4 dioxane and other contaminants. The claims were brought by two non-profit environmental groups and over 30 families under the federal Clean Water Act, the Resource Conservation & Recovery Act and Massachusetts General Laws, Chapter 21E
- Represented a Massachusetts manufacturer against dioxin and PCB contamination-related claims at a Superfund drum recycling site involving projected response costs in excess of \$150 million

### Lisa Gallo

Legal Support Specialist

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### Education

Boston College Law School JD  
(2000)

Mount St. Mary's University BA,  
*magna cum laude* (1995)

### Bar Admissions

Massachusetts

U.S. District Court for  
Massachusetts

U.S. District Court for  
Connecticut

U.S. Court of Appeals for the  
First Circuit

### Related Services

**Business Litigation**

**Commercial Litigation**

**Litigation**

**Real Estate and Environmental  
Law**

**Real Estate and Environmental  
Litigation**

- Obtained a judgment and award of attorney's fees under Massachusetts General Laws, Chapter 21E, and successfully defended judgment on appeal, against a municipality requiring it to remediate environmental contamination of our client's 14-acre property. The remediation was estimated to cost up to \$25 million
- Successfully obtained the rescission of our client's purchase of a 78-acre property based on the seller's failure to disclose known PCB contamination
- Obtained a multi-million dollar arbitration award and judgment for claims for breach of contract and unfair business practices on behalf of a designer and builder of pollution control systems for power plants
- Successfully represented a bank resolving MassDEP enforcement actions and private tort claims related to TCE contamination at a former bank-owned property
- Resolved an asbestos-related MassDEP enforcement action against two construction contractors resulting in a favorable Consent Order with a modest penalty
- Resolved an Attorney General and MassDEP wetlands enforcement action on behalf of a real estate developer resulting in a favorable Consent Order
- Regularly represented property owners, developers and municipalities in zoning and wetlands appeals involving special permits, variances, orders of conditions and subdivision approvals and denials in Massachusetts Land Court and Superior Court
- Obtained a dismissal of zoning-related claims for a commercial property owner concerning the non-conforming use of the property
- Obtained summary judgment against a former company controller who embezzled over \$1.4 million from his former employer
- Successfully defended a large commercial tenant in lease claims related to the term of the lease and building repairs
- Successfully prosecuted claims on behalf of a real estate investment company against an insurance carrier for failure to provide coverage and benefits under a commercial property insurance policy

## Affiliations

- 495/MetroWest Partnership, Board of Directors; Private Sector Co-Chair of Housing Committee
- Marlborough Economic Development Corporation, Board of Directors
- Marlborough Regional Chamber of Commerce, Board of Directors, past chair
- Town of Southborough, Economic Development Committee, past chair
- Boston College Alumni Association
- Mount St. Mary's College Alumni Association
- American Bar Association, Environmental Law Section
- Boston Bar Association, Environmental Law Section
- Massachusetts Bar Association
- Worcester County Bar Association
- The Boston Sportscar Company, LLC, owner and counsel

## Awards & Recognitions

- Named a "Go To Lawyer for Environmental Law" by *Massachusetts Lawyers Weekly* (2023)
- Named a Massachusetts "Super Lawyer" by *Boston* magazine and *Law & Politics* every year since (2021 – present); previously named a Massachusetts "Rising Star"
- Selected by *Worcester Business Journal* as one of "40 Under Forty" professionals honored for their professional excellence and community service (2005)

## Articles & Speaking Engagements

- "The Future of Housing in 495/Metrowest," The 495 Partnership's Annual Conference (December 12, 2024) (moderator)
- Quoted in "SJC to weigh local zoning of solar energy facilities,"

*Massachusetts Lawyers Weekly*, March 4, 2022

- ["Public Water Systems Finally Get Federal Help With PFAS,"](#)  
*Bloomberg Law*, December 22, 2021
- "PFAS in Your Water? You have Rights," *Go Green Radio* interview (July 16, 2021)
- Quoted in "Zoning lawyers see Baker bill as move in right direction,"  
*Massachusetts Lawyers Weekly*, October 17, 2019
- Quoted in "In Massachusetts environmental law, PFAS coming to the fore," *Massachusetts Lawyers Weekly*, July 3, 2019
- Quoted in "Fight to protect drinking water from 'forever chemicals' begins to boil," *Worcester Telegram & Gazette*, June 11, 2019
- Quoted in "Clean Water Act: Groundwater policy still muddled until Supreme Court rules," *Bloomberg E&E News*, April 23, 2019
- "Municipal Landfill Defeats Groundwater Pollution Claim,"  
*Massachusetts Lawyers Weekly*, November 1, 2018
- Quoted in "Trial date looms for Southbridge vs. Casella," *Worcester Telegram & Gazette*, September 18, 2018
- Cited in "Southbridge's lawsuit vs. Casella is moved out of federal court," *Worcester Telegram & Gazette*, May 24, 2018
- Quoted in "Southbridge takes Casella to court over trash pickup termination," *Worcester Telegram & Gazette*, April 29, 2018
- Quoted in "Benchmark to improve traffic as part of Marlborough assisted living facility," *MetroWest Daily News*, August 15, 2017
- Quoted in "Marlborough: Developer plans 104-bed assisted living facility," *MetroWest Daily News*, September 13, 2016
- Quoted in "Making it that 'final mile' to work in suburbia," *Boston Globe*, January 21, 2016