

# Alexander Elkan

Partner



#### CONTACT INFO

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#### OFFICE

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An accomplished and knowledgeable environmental lawyer and litigator, Alex works efficiently to achieve his clients' goals. He provides strategic counsel on all manner of environmental, natural resources and land use matters, and represents clients in permitting and transactional matters as well as litigation before state and federal administrative tribunals, and trial and appellate courts. Alex often represents companies in the mining, timber, real estate, manufacturing, and waste management industry sectors, as well as municipal governments and individuals.

## MY PRACTICE

### ENVIRONMENTAL & NATURAL RESOURCES

Alex focuses his practice on environmental, natural resources, and land use law and litigation before state and federal administrative, trial, and appellate courts. He has extensive experience counseling and representing clients in virtually all manner of environmental compliance, transactional, permitting and litigation matters. Alex

#### PRACTICE AREAS

Compliance & Internal Investigations  
Environmental  
Land Use & Zoning  
Litigation  
› Appellate  
› Complex Business Litigation  
› Federal Litigation  
› Mediation & Arbitration  
Real Estate  
Utilities

#### INDUSTRIES

Agribusiness  
Construction & Development  
Hospitality  
Manufacturing  
Real Estate  
Technology  
Trade Organizations  
Transportation  
Utilities

#### EDUCATION

University of North Carolina School of Law  
J.D., 2003  
Duke University  
M.E.M., 1996  
Union College  
B.S., 1991

#### BAR & COURT ADMISSIONS

New York  
North Carolina  
US Court of Appeals  
4th Circuit  
6th Circuit  
US District Court - North Carolina  
Western District  
Middle District  
Eastern District  
Certified North Carolina Superior  
Court Mediator

regularly handles a wide range of matters relating to mining, manufacturing, timbering and real estate development.

Examples include: obtaining Clean Water Act permits (401/404, NPDES, stormwater) and Clean Air Act permits; counseling waste management companies on regulatory compliance (including RCRA and CERCLA); advising real estate development companies on environmental and land use permitting; counseling manufacturing and other business clients on environmental, health and safety issues; and litigation involving permitting, government fines and penalties, and contamination.

Alex is recognized by clients and peers as a leading environmental lawyer and litigator. This recognition includes listings in [\*The Best Lawyers in America\*](#)® (Environmental Law), *Business North Carolina's* "[Legal Elite](#)" (Environmental Law), *North Carolina "Super Lawyers"* (Environmental Litigation) and as a "Future Star" by [Benchmark Litigation](#).

## LITIGATION

Alex's trial and appellate litigation practice involves representing individual and corporate clients in all manner of business, environmental, natural resources and land use disputes before local, state and federal administrative tribunals, and trial and appellate judicial courts. Alex regularly litigates a broad range of complex matters involving mining, real estate, contaminated properties, toxic torts, permits, waste, and various other land use, environmental, and business matters.

Alex has represented clients before state agencies, commissions, and judiciary courts, including: the Department of Environmental Quality, Office of Administrative Hearings and Environmental Management Commission; numerous Superior Courts throughout the state; and the Court of Appeals and Supreme Court. He also regularly litigates matters in all Federal District Courts in the state, and in the United States Court of Appeals for the Fourth Circuit.

Some of Alex's more notable cases include:

Trial and appellate litigation to judgment in defense of mining and real estate development clients against advocacy groups' challenges of Clean Water Act wetlands and discharge permits - including a case involving the successful defense of a state 401 Certification allowing one of the largest areas of wetlands impact, mitigation and preservation ever authorized. [See Pamlico-Tar River Foundation et al. v. NC DENR (Office of Administrative Hearings, Environmental Management Commission, and Wake County Superior Court)]

Trial and appellate litigation to judgment in defense of manufacturing clients against multiple personal injury and property claims based on alleged groundwater contamination. The clients' success stands as the leading toxic tort decision under North Carolina law. [See Curl et al. v. American Multimedia et al. (Alamance County Superior Court and North Carolina Court of Appeals)]

Appeal to the North Carolina Supreme Court in defense of a real estate development client against state government fines and penalties issued for alleged violations of the Clean Water Act. The client's success stands as a leading decision on third-party intervention and government penalties under North Carolina law. [See Holly Ridge v. NC DENR (North Carolina Supreme Court)]

Trial and appellate litigation to judgment in successful defense of a real estate client in a matter involving a commercial lease and contract dispute. [See Kennedy v. Gardner (Guilford County Superior Court and North Carolina Court of Appeals)]

Trial litigation to judgment in successful defense of a law firm client against business tort and contract claims arising out of real estate development and securities matters. [See Synergy Financial, LLC v. Zarro et al. (Federal District Court for the Western District of North Carolina)]

Defense of a manufacturing company client and successful resolution of federal government fines and penalties issued for alleged violations of environmental reporting requirements. [See U.S. Environmental Protection Agency v. Greenfiber, LLC (U.S. EPA Region IX)]

## LAND USE

Alex maintains a land use practice in which he counsels and represents developers and property owners in relation to all manner of zoning and land use matters, including representation before planning boards, boards of adjustment, city councils and county boards of commissioners, as well as related litigation before trial and appellate courts when appropriate to achieve clients' goals.

Alex understands that each matter is unique to the project, the land, and the legal, political and technical circumstances presented, and tailors his approach to pragmatically and efficiently achieve his clients' goals. His role may range from "behind the scenes" counselor to comprehensive representation in which he takes the lead in communicating with landowners, regulators, municipal staff, and elected officials to minimize opposition and garner support.

His experience includes successfully working throughout North Carolina – from the mountains to the piedmont to the coast - on matters involving rezonings, variances, special use permits, CAMA and wetlands permitting, stream buffer and stormwater issues, and other concerns. Alex has helped clients obtain government authorizations for highly contested projects, and has skillfully litigated numerous real estate and land use matters. He very much enjoys the multifaceted nature of land use matters and working creatively to achieve his client's goals.

## ADMINISTRATIVE LAW

Alex has extensive experience representing clients before local, state, and federal administrative tribunals on a wide range of complex environmental, natural resources, and land use matters. Alex handles regulatory compliance issues, variances, administrative rule-making and interpretation, environmental investigation, audit and penalty matters, and administrative contested cases.

## HONORS

Recognized as a "Future Star" by [Benchmark Litigation](#) (2019-2020)

Recognized by his peers for inclusion in [The Best Lawyers in America](#) in Environmental Law (2013-2021), Natural Resources Law (2021)

Selected by his peers for inclusion in *Business North Carolina's* "[Legal Elite](#)" in Environmental Law (2012, 2014, 2019-2020)

Recognized in [North Carolina Super Lawyers](#) (Thomson Reuters) for Environmental Litigation (2016-2017, 2019); named a "Rising Star" in Environmental Litigation (2012-2013)

2010 Herb Falk Society Pro Bono Award (Greensboro Bar Association)

2014 Pro Bono Award (Greensboro Bar Association)

## COMMUNITY INVOLVEMENT

Adjunct Law Professor, Environmental Law, [Elon University School of Law](#) (2016-present)

[American Bar Association](#), Litigation and Environmental Sections (2003-present)

[North Carolina Bar Association](#), Litigation and Environmental Sections (2003-present)  
[North Carolina Bar Association](#), Environmental Section Council (2006-2012, 2016-present)  
Chair, Pro Bono Committee, [North Carolina Bar Association](#) (2015-present)  
[Defense Research Institute](#), Toxic Tort and Environmental Litigation Committee (2004-2008)  
[Greensboro Bar Association](#) (2003-present)  
[Greensboro Bar Association](#), Young Lawyers Section Board of Directors (2004-2006)  
[United Way of Greater Greensboro](#), Community Grants Committee (2006-2010)  
[Community Foundation of Greater Greensboro Future Fund](#), Grants Committee (2007-2010)  
President, Board of Directors, [Green Hill Center for North Carolina Art](#) (2005-2011)  
YMCA and GUSA, Youth Athletics Coach (2005-2015)  
Assistant Scoutmaster, Boy Scouts of America Troop 101 (2012-present)

## PUBLICATIONS & MEDIA

"Environmental law: A litigator's perspective on permitting considerations," *Business North Carolina Law Journal*, 2017  
"Environmental Issues Related to Mining Activities" chapter in North Carolina Environmental Law Desk Manual NCBA 2015  
"North Carolina Shale Gas Mineral Rights and Access," UNC School of Law Festival of Legal Learning, 2013  
"North Carolina Shale Gas Mineral Rights and Access," Half Moon Land Law Seminar, 2012  
"Environmental Risks of Lenders," North Carolina Bankers Association Annual Meeting, 2011  
"Recent Developments in Environmental Law," Annual Meeting of the Environmental and Natural Resources Law Section of the North Carolina Bar Association, 2007  
"Legal Perspectives on Phase I Environmental Assessments," S&ME Environmental Professional Seminar, 2007  
"Environmental Law Developments", Annual Meeting of the Environmental and Natural Resources Law Section of the North Carolina Bar Association, 2006  
Governor Moves State to "Safer at Home" Phase 2.5 COVID-19 Restrictions; Extends Limited Hours for Alcohol Sales, September 2, 2020  
Governor Extends "Safer at Home" Phase 2 COVID-19 Restrictions , August 6, 2020  
Governor Extends Phase Two of COVID-19 Restrictions and Adds New Face Covering Requirement for North Carolina, June 24, 2020  
North Carolina Moving to Phase Two of Easing COVID-19 Restrictions, May 21, 2020  
North Carolina Enters Phase One of Easing COVID-19 Restrictions , May 7, 2020  
NC Governor Cooper Extends Statewide "Stay at Home" Order and Order Closing Schools, April 24, 2020  
Alex Elkan Discusses Essential Business Designations with the Triad Business Journal, April 20, 2020  
NC Governor Cooper Issues Statewide "Stay at Home" Order (Critical Infrastructure and Essential Business Operations Continue), March 27, 2020

Clean Water Act Controversy, February 1, 2019

Brooks Pierce Partner Alexander Elkan Published in Business NC, September 6, 2017

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