



Charles E. Barbieri

Senior Attorney

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A member of the Commercial Litigation Practice Group, Chuck concentrates his law practice almost exclusively in environmental and First Amendment and media law matters. His clients include municipalities, companies and individuals as he assists them with:

- **Environmental Law:** Litigation; air, water, waste, natural resource permitting and approval; air, water, soil, ground water, surface water, natural resource, right to know regulatory compliance, negotiation of contracts, insurance, review of due diligence for transactions, investigation and cleanup of contaminated sites, sewer authorities, and recycling.
- **First Amendment and Media Law:** Libel litigation; Freedom of Information Act (FOIA) requests and issues, Open Meetings Act issues, subpoenas, news gathering issues, courtroom access issues and access to court record issues.
- **General Litigation and Appellate Work:** Insurance defense, commercial litigation, defense of claims brought by United States and State units and defense of municipalities.

Chuck is a frequent author on environmental and first amendment issues and was recognized as an outstanding writer early in his professional career when he was articles editor for the *Indiana Law Review*. Chuck has authored numerous articles of interest for legal and trade publications throughout Michigan.

He has always been involved with professional and community affairs. He has served as section chair for the Environmental Law Section of the Michigan State Bar, is very active in the American Inns of Court at Michigan State University College of Law and is serving for a second stint on the Ingham County Bar Association Board of Directors and has been elected as Board secretary.

PRACTICE AREAS

Environmental Law
First Amendment - Media Law
General & Commercial Litigation
Appellate Practice
Commercial Litigation
Mass Tort
Agri-Business
Business & Commercial Litigation
Energy, Oil & Gas Law
Governmental Relations

EDUCATION

Indiana University School of Law,
J.D., 1980, *cum laude*
DePauw University, B.A., 1977,
magna cum laude

BAR AND COURT ADMISSIONS

Michigan
U.S. District Court for the Western
District of Michigan
U.S. District Court for the Eastern
District of Michigan
U.S. Sixth Circuit Court of Appeals
U.S. District Court for the Northern
District of Indiana
U.S. Fourth Circuit Court of Appeals
U.S. Supreme Court



REPRESENTATIVE MATTERS

- In a unanimous opinion issued April 13, 2023, the Michigan Court of Appeals held in favor of the City of East Lansing in a class-action lawsuit related to electric franchise fees. *Heos v City of East Lansing*, Court of Appeals Case Nos. 361105, 361138. The Court of Appeals reversed earlier decisions of the Ingham County Circuit Court, which had granted summary disposition to plaintiff James Heos and other similarly situated Board of Water and Light customers. The Court of Appeals directed the circuit court to instead enter summary disposition in favor of the City on remand.

In reaching this decision, the Court of Appeals held that plaintiff's claim under the Headlee Amendment to the Michigan Constitution and his similar equitable claims were untimely because they were not filed within one year after the franchise ordinance was adopted. The Court of Appeals further held that plaintiff could not bring an action under the 1905 Foote Act because the Foote Act only applies to electric utility providers, not electric customers. Consequently, the City was entitled to dismissal of all of plaintiff's claims. The opinion is available online here:

https://www.courts.michigan.gov/497287/siteassets/case-documents/uploads/opinions/final/coa/20230413_c36110

- Represented manufacturer in the defense against a subrogation claim and prosecution of a separate counterclaim relating to a fire resulting in nearly \$100 million in damages.
- Assisted trade organization in drafting and offering testimony on beneficial use reform legislation.
- Assisted a development company in acquiring a 600,000 square foot building and nearby properties that was later used for new manufacturing. Assisted in minimizing the liability for environmental issues, securing Brownfield reimbursement for environmental expenses and carrying out corrective action activities.
- Provided counsel to a public authority in acquisition of additional sewer capacity and participated in expansion of existing sewer facility that cost more than \$100 million. Negotiated related agreements.

HONORS & RECOGNITIONS

AV® Preeminent™
Martindale-Hubbell

Best Lawyers in America®
1993-2024 (Environmental Law, First Amendment Law, Natural Resources Law, Litigation - Environmental, Litigation - First Amendment)

Best Lawyers® 2014, 2016
Environmental Law "Lawyer of the Year" in Lansing

Michigan *Super Lawyers*,
Environmental, 2005-2023

2004 Boss of the Year, National
Association of Legal Secretaries -
Lansing Chapter

2015 Leo A. Farhat Outstanding
Attorney Award - Ingham County
Bar Association (ICBA)



- Successfully argued in Michigan Supreme Court that residents surrounding former solvent distribution business could not bring property damage claims merely because they lived in the vicinity of the business unless their properties were actually contaminated.
- Obtained directed verdict in a libel suit against a news columnist who reported about a local service firm that charged excessive fees. Successfully defended appeal.

SPEAKING ENGAGEMENTS

Environmental Compliance Essentials, *Michigan Manufacturers Association*, November 20, 2014

PUBLICATIONS

Michigan Appeals Court Rules Invalid New Environmental Regulations, *Foster Swift Agricultural Law News*, September 5, 2023

Bio-Digesters: A New solution for a New Era, *Foster Swift Agricultural Law News*, September 17, 2021

Pollutant Discharges to Groundwater May Fall Within the Clean Water Act, *Foster Swift Agricultural Law News*, June 10, 2020

Legislature Passes Significant Changes to Environmental Remediation Statute, *Foster Swift Commercial Litigation News*, February 16, 2015

Michigan Court of Appeals holds owner and operator of an underground storage tank liable, *Foster Swift Commercial Litigation News*, September 10, 2014

Michigan Legislature Introduces Beneficial Use Reforms, *Foster Swift Commercial Litigation News*, April 25, 2014

House Bills Proposed to Amend Solid Waste Act and Promote Beneficial Use of Materials, *Foster Swift Agricultural Law Update*, April 22, 2014

Updates to Michigan's Clean Corporate Citizen Program, *Foster Swift Environmental Law Update*, February 7, 2013

New Environmental Leaders Legislation, *Foster Swift Agricultural Law Update*, January 2013

Hazardous Waste Regulation and Recycling Revisited in 2008, *Foster Swift Construction Law News*, January 2009

The Recovery of Damages for Present Risk of Future Injury, *DRI Environmental and Toxic Tort Defense Monologue*, 1989

MEMBERSHIPS & AFFILIATIONS

Legal Affiliations:

- Litigation Counsel of America, fellow
- Defense Research Institute
- American Inns of Court, MSU College of Law, Special Master
 - Past President, 2017-2019



- State Bar of Michigan, Environmental Law Section
 - Council member, 2000-2006
 - Secretary-treasurer, 2006-2007
 - Chair elect, 2007-2008
 - Chair, 2008-2009
- Michigan State Bar Foundation fellow
- Ingham County Bar Association
 - Past Board President
 - Past Board Member
 - Past Chairman, Environmental Law Section

Industry & Professional Associations:

- Water Environment Federation
- Michigan Oil and Gas Association, Environmental Affairs Committee, Past Member

Community Involvement:

- Peoples Church, East Lansing
- Boy Scouts of America, Troop 125, Okemos, Past Scoutmaster, 2003-2008
- DePauw University Alumni Board, Member of Admissions Committee, 2012-2018