

Counsel, Washington, D.C.

Environmental; Environmental, Social and Governance (ESG); Climate Change



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Education

J.D., University of Virginia School of Law, 2002 (Editorial Board Member, *Virginia Environmental Law Journal*)

B.A., Stanford University, 1997

Bar Admissions

District of Columbia

Virginia

Liz Malone is head of the firm's Environmental Group. She helps clients navigate complicated and stringent environmental laws and regulations, advising on environmental risks, liabilities and mitigation strategies in corporate transactions, ESG initiatives and requirements, issues related to complex cleanup efforts and litigation in state and federal courts and administrative proceedings.

Ms. Malone provides general regulatory and compliance advice and represents clients undergoing bankruptcy proceedings with respect to the resolution of their environmental claims and liabilities. She also is a member of Skadden's ESG and climate change practices, advising clients on the regulation of greenhouse gases, disclosure and transparency issues, and sustainability initiatives. She has been selected for inclusion in *Chambers USA*, where she has been described as "a sophisticated, intelligent and disciplined advocate and a no-nonsense litigator" and "an esteemed practitioner notable for work across compliance, transactional matters and environmental litigation" who is "well known for her representation of private equity firms" and "commercially focused and client oriented."

Ms. Malone has advised hundreds of clients on significant environmental issues of corporate transactions. In this area, she frequently counsels on the identification and analysis of environmental liabilities and compliance issues; the negotiation of representations and warranties, covenants, indemnities, insurance policies and other contract provisions to allocate and manage environmental liabilities; the management of post-closing cleanup and compliance obligations; and compliance with transaction-triggered cleanup statutes, such as New Jersey's Industrial Site Recovery Act and the Connecticut Transfer Act. She also regularly advises on issues surrounding renewable energy-related project development, including permitting matters and the negotiation of financing agreements.

Her transactional experience includes representing clients in a wide variety of industries, including **aerospace** (Triumph Group), **steel and mining** (OAO Severstal, ArcelorMittal, National Steel Corp., Foundation Coal), **chemicals** (E.I. du Pont de Nemours and Company, Huntsman Chemical Co., Access Industries), **pharmaceutical and life sciences** (Pfizer, Endo Pharmaceuticals, Inc., JLL PharmaNet Development Group, Abbott Labs, MDS Inc.), **manufacturing** (CEMEX S.A. de C.V., Ball Corporation, Danaher, Pactiv, Alcoa, Inc., The Middleby Corporation, Packaging Dynamics), **energy** (Pattern Energy Group, The AES Corporation, Reliant Energy) and **financial services** (Citigroup, Inc., Credit Suisse, Deutsche Bank AG, J.P. Morgan Chase & Co., Morgan Stanley).

Ms. Malone also regularly counsels clients on the environmental (E) aspect of ESG and has worked with numerous private equity firms and companies in sectors such as manufacturing, energy (both in the traditional and renewable energy sectors), mining, pharmaceuticals and entertainment. Accordingly, she frequently advises clients on developing and implementing environmental, climate change and sustainability policies and initiatives. In this capacity, her work includes identifying key risks and mitigation options; working with key stakeholders both inside and outside of the company; navigating evolving ESG standards, guidelines and initiatives; and drafting white papers to support such initiatives. Ms. Malone also assists clients on producing the content of organizations' environmental disclosures and reports, including those that are voluntarily provided and those that are required by law. She also has a deep background in conducting ESG due diligence and negotiating ESG provisions in acquisition agreements, supply contracts and financing instruments.

Liz Malone

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Ms. Malone's litigation experience includes counseling on a wide variety of contested matters, such as governmental investigations, Superfund cleanups and lawsuits, toxic tort class actions, actions against private parties to enforce contract provisions and contribution/allocation actions. Examples of her litigation representations include:

- **an energy company** in the defense against allegations that environmental liabilities rendered a subsidiary of the company insolvent at the time a large dividend was issued to the parent company
- **Appleton Coated** as a nonparty in significant discovery disputes concerning two major Superfund sites. Skadden successfully resolved the disputes and defeated claims that Appleton Coated should be sanctioned for the destruction of documents subject to a court order
- **Sequana SA** in dismissing claims alleging that AWA Ltd, its wholly owned subsidiary, and AWA's directors violated the U.K. Companies Act and the directors' fiduciary duties by issuing dividends to Sequana totaling €585.5 million. Skadden's defense involved demonstrating that the estimates of AWA's environmental liabilities in the U.S., upon which the timing and amount of the dividends were based, met applicable accounting and legal requirements
- **CF Industries, Inc.** in a challenge to numeric nutrient water quality criteria promulgated by EPA for the state of Florida
- **Pfizer, Inc.** in connection with the negotiation of a removal order and the implementation of a remedial action at a National Priorities List Superfund site and at other cleanup sites
- **Alcoa Inc.** in the defense of a \$42 million cost recovery action by the U.S. for the cleanup of the Agricultural Street Landfill in New Orleans. Ms. Malone and the Skadden team successfully brought a counterclaim against the U.S. Army Corps of Engineers, overcoming sovereign immunity defenses by the government
- **Axel Johnson Inc.** as plaintiff in connection with its malpractice, fraud and unfair trade practices claims against Arcadis Geraghty and Miller, Inc. arising from the performance of a Superfund removal action
- **The AES Corporation** in connection with an investigation into climate change disclosure issues brought by the New York attorney general under the state's Martin Act
- **CEMEX** in the development and implementation of an administrative strategy to secure a controversial modification to a Title V air permit and defense of a subsequent citizens' action challenging the permit

Ms. Malone also advises clients on compliance with environmental laws, including in the defense of enforcement actions brought by federal and state agencies and administrative proceedings. Examples of her work in this area include representing:

- a large manufacturing company in connection with an alleged release of hazardous substances from a railcar and subsequent investigation by the Federal Railroad Administration
- a large manufacturing company in connection with alleged MACT and Title V air permit noncompliance matters at a number of facilities
- a large mining company in defending against a Resource Conservation and Recovery Act investigation brought by the U.S. as part of a nationwide enforcement priority initiative
- a major airline in connection with an enforcement action related to underground storage tanks
- a mining company in connection with proposed water quality standards

In addition, Ms. Malone routinely advises clients undergoing bankruptcy proceedings in connection with their environmental liabilities. Her work in this capacity has included representing Chapter 11 debtors in the resolution of hundreds of environmental claims and litigating whether various environmental liabilities can be discharged. She also has counseled clients on the formation of trusts to hold contaminated property and the liquidation of such trusts. Among other matters, Ms. Malone represented the official committee of the equity holders in the bankruptcy proceedings of Chemtura Corporation, which involved more than \$2 billion in asserted environmental claims.