

# GABE RODRIGUEZ

## Creating a New Legacy in Environmental Law

by David Conway

Gabriel M. Rodriguez's career has been a steady course that established him as a leader in environmental litigation, a field he has been practicing in for over 25 years. An area of the law that once comprised a relatively small number of attorneys, it has expanded exponentially ever since he began his practice.

Rodriguez's career has followed the progression of the law, and at **Schiff Hardin LLP** he leads one of the most highly regarded environmental practice groups in the Midwest.

His legal career almost didn't happen, however. "I graduated from college in the late 1970s with no specific career plan, but with the idea of going into public service," Rodriguez explains. With that in mind he decided on graduate school to pursue a degree in special education.

Rodriguez had a vision of public service, and special education seemed like a great way to fulfill that need. It just turned out that it wasn't the right fit. "Just before completing my master's degree I, rather impulsively, took the LSAT," Rodriguez says. The law also offered a path to public service, and it seemed like a better fit.

He enrolled in law school at Northern Illinois University in 1981. While in law school, Rodriguez excelled. He was an editor of the *Northern Illinois University Law Review*. After graduation, he joined the Illinois attorney general's office. At the time he thought it would be his one and only stop.

"It was an exciting and rewarding place to work," Rodriguez says. He was gaining tremendous experience very early on, and he was in a fluid and dynamic environment that was very conducive to learning by doing.

"That office was small and there were only 10 or 12 assistant attorneys general doing environmental law in the state," Rodriguez says. "We were all young and green, but were responsible for some very important cases. During my years there I was handling some big cases."

The cases included enforcement litigation cases involving landfills and other waste disposal facilities that were posing serious environmental threats. He handled cases mainly in DuPage, Bureau and LaSalle counties. Rodriguez and others had the duty of making sure that the proper parties were held accountable for cleanups.

Rodriguez was able to work on the cases because he trusted his mentors and they trusted him. A big part of his development as



an attorney was the chance to gain front-line experience, running his own cases, while working under the supervision of fine leaders.

"During that time in the attorney general's office, my supervisor was Joe Claps, who is now a Cook County Circuit Court judge," he says. At that time, Claps was in charge of enforcement litigation in the office. Rodriguez says Claps was not the type to heap praise on you. "But he let you run with your own cases. While you were bound to make mistakes, Joe let you take your lumps. He thought that was the best way to learn."

"It was a great opportunity to gain experience. But he picked you up when you needed it. I learned a lot about managing people from Joe."

Rodriguez advanced quickly, working on several important cases in his years at the attorney general's office. For example, he was the lead attorney for the state on a federal consent decree in the Waukegan Harbor PCB case. That case involved a joint effort by the state and federal governments in requiring a PCB cleanup of Waukegan Harbor.

These cases provided great experience, but Rodriguez wanted to move on to something more. Having a background in environmental law in 1988 was an asset.

Rodriguez had been practicing for four years by then, and the fact that he had worked in the attorney general's office afforded him opportunities with firms that were looking to grow or establish an environmental practice.

"I had offers from some excellent firms, but I knew I wanted to come to Schiff Hardin," says Rodriguez. He started there in 1988 and has never looked back.

When Rodriguez arrived at Schiff Hardin, he met the second of his great mentors, Sheldon Zabel. "Sheldon was looking for an associate. He was already known as the best in this field in Illinois, and among the best in the country."

Zabel's reputation as Chicago's pre-eminent environmental lawyer led Rodriguez to seek him out. "I knew of him when I was with the attorney general's office. He was known not only as a consummate lawyer, but for being fair, honest and a straight shooter. I really wanted to work with him." Zabel was a pioneer in the field of environmental law, helping to establish one of the city's first major environmental law practices at Schiff Hardin.

Zabel impressed Rodriguez immediately. "I met with him and we hit it off right away," he says. Zabel practiced environmental law for 41 years at Schiff Hardin before passing

away in 2008. For 20 of those years he was Rodriguez's colleague, mentor and friend.

"I was really fortunate to have worked with Sheldon for all those years. He taught me so much. I'm now the head of the practice group here, but it's really his legacy." That legacy is substantial.

"I'm biased," Rodriguez admits, "but I think Schiff Hardin's environmental group is the best in the city if not the entire Midwest."

### Schiff Hardin's Environmental Practice

The environmental practice group at Schiff Hardin boasts a half-dozen attorneys with over 20 years of experience. "We were all protégés of Sheldon. Each of us has his or her own expertise, and I know we can handle any case that comes our way."

There are eight other attorneys who work exclusively in the area of environmental law. Chambers USA has recognized the practice group as one of the best in its annual rankings in each of the past four years. The group handles everything from compliance counseling and transactional work, to rulemakings and environmental and toxic tort litigation.

Rodriguez has been most active recently with environmental compliance counseling and litigation for electric and gas companies

related to coal tar and coal ash sites. He also counsels manufacturing companies and financial institutions with respect to soil and groundwater contamination issues. And he has been involved in all aspects of environmental litigation.

"I work with companies to address contamination issues at current and former facilities," says Rodriguez. It is a continuous effort to ensure that the companies are adhering to environmental regulation as it constantly evolves.

## Ever-Changing Environmental Law Field

The scope and complexity of environmental law have changed considerably during the past 25 years. Environmental legislation and regulation have reflected the country's paradigm shift in becoming more environmentally conscious. That dynamic is something that Rodriguez appreciates about the practice. "One of the great things about this area of law is that every five years or every 10 years everything changes: the policy, the science, the approach," says Rodriguez.

Rodriguez has seen many changes over the course of his career. He began practicing in the 1980s, during one of those shifts in policy and approach to environmental liability, when the EPA was putting in place the machinery for addressing hazardous waste sites and hazardous waste management.

The Comprehensive Environmental Response, Compensation and Liability Act of 1980, or "CERCLA," also known as "Superfund," created a mechanism for cleaning up hazardous waste sites. It used a combination of federal funds and a tough liability scheme to pay for site cleanup. CERCLA established liability for persons responsible for hazardous waste releases at

problem sites and established a federal trust fund to provide for cleanup when no responsible party can be identified.

The Resource Conservation and Recovery Act, or "RCRA," put in place exacting standards dealing with the management of industrial waste streams.

"I started practicing environmental law shortly after RCRA and CERCLA were enacted, when the programs were undergoing development and refinement," says Rodriguez. More and more companies were facing liability for cleanup as the government looked to responsible parties to foot the bill to get these properties cleaned up.

"CERCLA and court decisions interpreting it opened up potential liability to other [companies], such as financial institutions, that had not yet been exposed to environmental liability," Rodriguez says. "It got people's attention."

The early 1990s saw another round of amendments to CERCLA policy. "Before 1993 or 1994, there were no generic cleanup standards. Agencies would establish extremely conservative cleanup goals on a case-by-case basis," Rodriguez says. "In 1993, we saw the advent of risk-based corrective action. Cleanup criteria were based on actual exposure risks, which in turn depended on future land use. The driver here was the concern behind the entire brownfields movement."

The motivation behind risk-based cleanup was that it made little sense to clean such property to pristine conditions. The new approach made perfect sense to Rodriguez. "Property that was going to be used for a factory didn't need to be cleaned to the same level as a residential property or a playground," he says.

Rodriguez calls that Superfund reform a "truly transformative event".

"If I take two steps back and look at how it's evolved since 1985, you can start with the size of the environmental bar in Chicago to see how much this field has grown. Back then it was very much a niche practice, mostly practiced by lawyers representing heavily regulated industries. Back then, everybody practicing environmental law in Chicago knew each other." That is certainly not the case today.

The number of lawyers who practice in the field is just one indication of the change. While Love Canal and other environmental disasters were of national prominence in the 1980s, environmentalism is now a prominent social topic.

"Over the last decade, concern for the environment, sustainability and climate change have found space on the front page of the national dialogue. It has become part of the national fabric. It will continue to be that way. There's little doubt about it."

One challenge that practitioners face is that environmental matters often present many novel situations. For example, the country is currently facing an unprecedented oil release with the Gulf Coast BP disaster. When faced with an unprecedented issue like this, environmental professionals have no easy answers. According to Rodriguez, "There is not a book on the shelf you can pull out with the ready-made game plan for these types of cases. These are absolutely novel issues requiring creativity, clear-eyed thinking and some measure of courage."

With the costs and liabilities involved with a case like the BP spill, there is little doubt that future legislation will be enacted to address the issues.

## From Student to Teacher

Aside from Claps and Zabel, many other professionals impacted Rodriguez's career. "There is little doubt that I am where I am today because of the people who took an interest in my career," he says.

Now, as head of Schiff Hardin's environmental practice group, and with a very successful career himself, Rodriguez has the opportunity to serve as a mentor for the young attorneys at Schiff Hardin. He recognizes the importance of this task. "I worry that mentoring is becoming less prevalent in the profession. Here at Schiff Hardin we genuinely take an interest in how young lawyers are developing. I know in our practice group we emphasize it."

Recognizing how fortunate he was to have the mentors he did gives Rodriguez more motivation to help engage the young lawyers he comes across. "The people who mentored me helped me when I needed it, but they were letting me take my own swings," he says. "I think that's really important."

One of the only ways to really learn is to actually get thrown into the fire and gain that experience. "Firsthand experience allows young lawyers to develop their sense of what the important issues and facts are," he says. "You develop that ability to discern the important from the unimportant through experience."

"We work on developing our young lawyers, and that was something that all of the senior lawyers here owe to Sheldon. In some respects, we are paying it forward."

Carrying on Sheldon Zabel's legacy is very important to both Schiff Hardin and Rodriguez. By carrying on his mentor's legacy and adhering to his values, Rodriguez is creating a legacy all his own. ■