

ATTORNEY BIOGRAPHY



David K. McCay

Partner

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Legal Administrative Assistant

Lisa J. Gallo

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Education

JD, Boston College Law School (2000)

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

Bar and Court Admissions

Massachusetts

U.S. District Court for Massachusetts

U.S. District Court for Connecticut

U.S. Court of Appeals for the First Circuit

Professional/Community 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, Weston, Massachusetts, owner and counsel

Practice Group(s) and Specialty Area(s)

Real Estate and Environmental Law

Environmental Law

Land Use Permitting

Litigation

Business and General Litigation

Real Estate and Environmental Litigation

Securities and Shareholder Litigation

Public and Municipal Law

Dave is a partner and Chair of the firm's Litigation Department where he specializes in the resolution of complex environmental, real estate, zoning and business disputes. He 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, insurance coverage disputes and the enforcement of noncompetition agreements. Dave also represents property owners, developers and municipalities in local land use permitting matters.

Dave appears regularly in the state and federal courts in Massachusetts and in arbitration proceedings before the American Arbitration Association and JAMS. Dave has been named a Massachusetts "Super Lawyer" by *Boston* magazine and *Law & Politics* every year since 2021, he was previously named a "Rising Star." In 2005, he was selected by the *Worcester Business Journal* as one of "40 Under Forty" professionals honored for their professional excellence and community service. In 2023, Dave was named Go To Lawyer for Environmental Law by *Massachusetts Lawyers Weekly*.

Dave is Editor and a frequent contributor to "[The Mirick Real Estate Law Blog](#)," which provides news and commentary on real estate development, environmental and construction law. Dave is active in the MetroWest and Boroughs+ community. He currently serves on the Board of Directors of the 495/MetroWest Partnership and as Co-Chair of its Housing (Development) Committee. He is also a member of the Board of Directors of the Marlborough Economic Development Corporation. Dave is Past-Chair of the Southborough Economic Development Committee, the Marlborough Regional Chamber of Commerce, and a former member of the Advisory Board for the MetroWest Economic Research Center at Framingham State University. Dave lives with his wife and two sons in Southborough.

Representative Matters

- 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

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Representative Matters (continued)

- 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
- 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 formerly-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 a MassDEP enforcement action on behalf of an automotive service and inspection station 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
- Successfully represented an international teleconferencing company in the enforcement of a non-competition agreement arising out of the sale of a business
- Enforced a non-competition and non-solicitation agreement on behalf of a high-tech sales and distribution company against its former sales affiliate

Publications/Presentations

"[The Mirick O'Connell Real Estate Law Blog](#)," editor and author of over three dozen articles on various real estate development, environmental and construction issues, 2012 to present

- 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
- "Building the Boroughs+: Building and Keeping a Great Downtown," Mirick O'Connell Seminar Series (May 7, 2015)
- Quoted in "Marlborough: Developer, committee clash over Dunkin' sign," *MetroWest Daily News*, April 28, 2015

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Publications/Presentations

- Quoted in “Southborough considers hiring economic development coordinator,” *MetroWest Daily News*, February 5, 2015
- Quoted in “Southborough’s Economic Development Committee sets vision for town’s future,” *Community Advocate*, January 29, 2015
- Quoted in “Former Bruins great shares stories at chamber luncheon,” *Community Advocate*, November 25, 2014
- Quoted in “Southborough economic development suggestions begin to take shape,” *MetroWest Daily News*, November 13, 2014
- Quoted in “Southborough looks ahead 25 years as leaders weigh development strategy,” *Worcester Business Journal*, November 6, 2014
- Quoted in “Riding a wave,” *Worcester Business Journal*, October 19, 2014
- Quoted in “Southborough gets good news on the economy,” *MetroWest Daily News*, July 25, 2014
- Quoted in “Southborough steps up economic development effort,” *Community Advocate*, July 17, 2014
- Quoted in “Setting sights higher in Framingham,” *Worcester Business Journal*, June 17, 2014
- "Employment Litigation Update," Mirick O'Connell Labor, Employment and Employee Benefits Seminar (2009)
- “Superior Court Standing Order 1:09: New Rules Promote Transparency in Written Discovery,” *Massachusetts Bar Association Section Review*, 11, no.1, 2009
- "The Application of the Massachusetts Psychotherapist-Patient Privilege in Employment Cases," *Massachusetts Bar Association Section Review*, 8, no. 2, 2006
- "Covenants Not to Compete After Boulanger," *Massachusetts Bar Association Section Review*, 7, no. 1, 2005
- "Managing Risks in Private Companies," Mirick O'Connell Seminar Series (2005)
- "A Matter of Trust: The Impact of Fiduciary Duty on Private Companies," *Worcester Business Journal*, May 2, 2005 (with James C. Donnelly, Jr.)
- "Many Businesses Face New Requirements for Protecting Customers' Privacy," *The Mirick O'Connell Report*, Winter 2002
- "Hit the Books: Statutory Defenses to Contract," in *Legal Ways to Get Out of a Contract*, MCLE, 2001 (with Joan O. Vorster)