

Michael D. Flanagan

Partner/Retired



Michael D. Flanagan is a partner and business lawyer with Foley & Lardner LLP. His practice includes compliance counseling, auditing, due diligence and risk allocation in transactions, administrative proceedings and litigation. He is the immediate past co-chair of the firm's Food & Beverage Industry Team. A member of the firm's Environmental Regulation Practice, Mike counsels and represents clients on environmental law, Food & Drug Administration (FDA) matters, and health and safety issues.

Mike represents a wide variety of manufacturing and commercial clients, and has developed particular experience in addressing regulatory issues impacting the food industry. He assists numerous clients specializing in the processing, manufacturing, and distribution of food products on regulatory matters, including environmental permitting, waste disposal, product labeling, product recalls and reporting requirements, and OSHA compliance.

Representative Experience

- Represented and counseled a national food producer/food retailer (with more than 1500 company-owned or franchise-operated retail outlets) in connection with national recalls of food products.
- Counseled a national retail food company regarding FDA requirements applicable to labeling food and beverage products, including allergen labeling, nutrient content claims and health claims.
- Counseled a pet food company regarding product recall arising out of potentially contaminated ingredient received from supplier and recovery of related costs from supplier.
- Counseled a national food producer/retailer on a wide range of matters including product recalls, restaurant/menu labeling requirements, product labeling, nutrient content claims, allergen labeling, all natural claims, product naming, standards of identity, supplier contracts, product guarantees, etc.
- Provide food regulatory compliance counseling to a company headquartered in San Diego, California, that operates over 190 restaurants, on issues including allergen labeling, restaurant menu labeling, health and structure/function claims, nutrient content claims, health claims, all natural claims and related issues.

- Represented a leading manufacturing company in connection with the ongoing remediation of the company's former location of operations. Chlorinated solvent contamination (tetrachloroethene, trichloroethene, cis-1,2-dichloroethene and vinyl chloride) was discovered in the soil and groundwater at the time this large manufacturing facility was sold, and the company retained responsibility for investigation and remediation of the identified contamination in cooperation with the current property owner. Groundwater contamination was detected at depth and was migrating off-site, and a municipal well field was located adjacent to the property.
- Counseled a leading food company regarding product destruction arising out of potentially contaminated ingredients received from supplier and recovery of related costs from supplier.
- Represented a major international cheese and dairy company in the acquisition of a specialty cheese company, via a stock purchase.
- Counseled a leading food ingredients company regarding product labeling requirements, including ingredient declarations, nutrient content claims and allergen labeling issues.
- Counseled a beverage manufacturer regarding national product withdrawal in response to allegations regarding alcohol content of product, and related negotiations with distributors, retailers and regulators (FDA and TTB).
- Counseled an international food ingredients manufacturer regarding regulatory issues related to the historic and proposed use of various ingredients and additives in food products. Also advised the client regarding historic and proposed claims concerning probiotics on product labels and in related advertising.
- Represented a consumer products manufacturer in defense of a U.S. EPA enforcement action for alleged violations of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) arising out of product labeling of antimicrobials in consumer products.
- Represented an energy company in connection with the remedial investigation and feasibility study of a former coke and gas site in the Midwest pursuant to a Consent Order with U.S. EPA. The site, which borders a river in a primarily industrial and commercial municipal area, has been used for industrial activities since the 1800s, including a manufactured coke and gas facility, coal storage, a concrete recycling facility and a scrap and salvage operation.

Awards and Recognition

Mike has been Peer Review Rated as AV Preeminent[®], the highest performance rating in Martindale-Hubbell[®] Peer Review Ratings[™]. He was selected by his peers for inclusion in *The Best Lawyers in America*[®] in the fields of Environmental Law (2008 – 2021), Litigation – Environmental (2012 – 2021) and Natural Resources Law (2012 – 2021). Mike was also named the Best Lawyers[®] 2015 and 2017 Natural Resources Law “Lawyer of the Year” in Milwaukee. In 2011 – 2017, he was named one of America's Leading Lawyers in the area of natural resources & environment law by *Chambers USA*.

Affiliations

- Member, American Bar Association

- Member, State Bar of Wisconsin
- Member, Milwaukee Bar Association
- Past Chair, Environmental Law Section of the State Bar of Wisconsin

Thought Leadership

Mike is the author of numerous articles and a frequent lecturer on regulatory compliance issues.

Education

- University of Michigan Law School (J.D., cum laude, 1983)
 - Law Clerk, Honorable Sherman G. Finesilver, Chief Judge of the United States District Court for the District of Colorado (1983 to 1984)
- Marquette University (B.A., summa cum laude, 1980)