

## Rising Star: Akin Gump's David Quigley

By **Dietrich Knauth**

*Law360, New York (March 29, 2012, 8:12 PM ET)* -- Akin Gump Strauss Hauer & Feld LLP's David Quigley has helped clients manage environmental due diligence related to more than \$1 billion in acquisitions, using an innovative approach tailored to the risks faced by financial services companies, one of many accomplishments earning him a spot among Law360's top five environmental attorneys under 40.

Quigley, 38, focuses on regulatory compliance and due diligence, but his practice includes a wide range of environmental issues, including litigating Clean Air Act enforcement suits, environmental liabilities in bankruptcy and environmental indemnity claims.

Quigley's development of a due diligence model for the financial services industry arose from years of frustration by clients in the industry, he said. The clients investing in properties would hire consultants who used more traditional environmental due diligence models designed for commercial or industrial property owners. That approach often led to more work than the lenders needed, so Quigley decided to save them time and money by coming up with new models tailored to the risks appropriate to lenders or investors with a security interest.

"Lenders have unique protection under environmental laws, so their due diligence can be unique," Quigley said.

The approach has helped Akin Gump's clients, and no other firm offers a similarly proactive and tailored service, he said. Quigley's clients now employ the model at more than 100 sites worth hundreds of millions of dollars.

As a younger attorney, Quigley said he's "not locked into one way of thinking" on things like due diligence, and he prides himself on being problem solver.

"I remember seeing this quote in Sports Illustrated, 'I think we can get something done if we can just get the lawyers out of the room,' — and that type of thinking always bothered me," he said.

Quigley owes the breadth of his experience in environmental law to starting his career at Akin Gump at a time when the environmental group was fairly small, so that whenever an environmental matter came in the door, whether it was transactional, regulatory or other, he would get to work on it.

Experienced peers and mentors, like partner Paul Gutermann, helped him learn fast and rise quickly.

“As a young attorney, you're in the mode of sponging up as much knowledge as you can,” Quigley said. “I couldn't have handpicked a better mentor for me.”

Jack Bowler, who is general counsel at the U.S. division of French steel pipemaker Vallourec, has worked closely with Quigley in recent years on the company's international environmental compliance and ethics policies and had high praise for the quality of Quigley's work.

“I don't care if someone's been practicing for five years or 25 years, as long as they have the skills,” Bowler said. “On my shortlist of really good attorneys that we can turn to, he's right on that list.”

Bowler said Quigley has played a key role in helping the company meet and exceed the environmental requirements of all the countries it works in, and his presentation skills and sense of humor helped speed the new policies along.

“Environmental is a bit of a dry topic, and that really helps keep people engaged,” Bowler said.

Quigley also put his presentation skills to the test in litigating Clean Air Act suits on behalf of former owners of power plants who were hit with enforcement actions years after they sold the power plants.

“There are few things you do that are as much fun as going to trial and trying to explain these things to a third party and hope that they see things your way,” he said.

In the past year, Quigley has represented Met-Ed in *New Jersey v. RRI Energy Mid-Atlantic Power Holdings LLC*, a Clean Air Act citizen suit brought by the states of New Jersey and Connecticut. Met-Ed, the former owner and operator of a 427 MW coal-fired power plant in Pennsylvania, was accused of modifying the power plant without first obtaining a preconstruction permit and installing more stringent pollution controls, in violation of the New Source Review provisions of the CAA.

Quigley and the Akin Gump team managed to get all the claims for injunctive relief dismissed, based on the age of the allegations, and an order saying the states could recover damages only if they could prove that the statute of limitations should be extended because MetEd acted to hide its alleged misdeeds. The court order dismissing claims for injunctive relief against MetEd, as the former owner and operator of the plant, was the first such decision under the Clean Air Act, Akin Gump said.

Quigley followed that victory up with another win in a similar case, *U.S. v. EME Homer City Generation LP et al.* In the EME Homer City case, he helped his client, again a former owner who had sold the power plant, obtain an order stating that the former owner could not be forced to upgrade property it no longer possessed.

Quigley got another chance to showcase his skills while representing unsecured creditors with environmental claims in the bankruptcy of Chemtura Corp., which filed for Chapter 11 in 2009 with \$2.6 billion in debt and \$3.06 billion in assets. Quigley played a key role in valuing the environmental liabilities faced by the company and in negotiating settlements of those liabilities with both federal and state regulatory authorities.

Because of the financial limits on what a bankrupt company can spend and the number of competing interests, the case became a “tremendous balancing act” that involved many different parties and different areas of the law, Quigley said.

“Every type of legal issue comes up in a financial restructuring, so it helps to be at a firm that can deal with all of those issues,” he said.

--Editing by Lindsay Naylor.

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