

Michael Maher

Lessons Learned From Marines Shape Approach to Environmental Law

by Jason Nevel

Before his 18th birthday, Michael J. Maher had a roadmap for how he wanted the next 40 years to play out.

He would enlist in the U.S. Marine Corps, go to college on the G.I. Bill, attend law school and study environmental law, work for the government and then transition into private practice.

That's exactly what happened, says Maher, 59, a partner at the Chicago-based law firm **Swanson, Martin & Bell LLP**, who also worked as an environmental prosecutor for the Illinois attorney general, and as counsel to the chairman of Illinois' Pollution Control Board.

What he didn't anticipate, Maher says, is how much his military experience would shape his approach to the law and form a bond he maintains with nonprofits that help veterans recover from injury, secure



employment and return to normal life.

In the military, Maher was taught as a codebreaker for the National Security Agency to identify what the other side wants and how the other side plans to accomplish that mission.

Back then, that meant tracking and deciphering communications of Russian and Chinese ships and submarines.

Three decades later, when a client approaches him with an environmental matter, Maher still employs that approach.

Maher says it helps him develop the best strategy to represent his client by understanding the other side's issues, plans and motivations.

“When handling any environmental matters — like negotiating sale or lease terms, or in litigation — it is critical to understand what the other side wants. I already know what's important to our side. I know our strengths and weaknesses. But when you think like the other side, often times a strategic roadmap unfolds in front of you. Sometimes there are things important to the other side that are not (yet) on the table. But once you put

yourself in the other side's shoes, many of these issues become clear.”

Environmental Lawyer

Having passed the bars in Illinois, Florida and California during his 16 years at Swanson, Martin & Bell, Maher, a graduate of Northern Illinois University College of Law, has represented national and international corporations in numerous types of environmental matters across the United States.

His practice involves all areas of environmental law, including property transactions, leases, multiparty litigation, regulatory enforcement actions, underground storage tanks, counseling on regulatory compliance, Occupational Safety and Health Administration defense, toxic tort defense litigation and transportation of hazardous materials.

Before entering private practice, Maher, a father of two and a husband, prosecuted environmental cases for the Illinois attorney general, helped draft environmental regulations and served as a hearing officer at the Illinois Pollution Control Board (IPCB).

From 1989 to 2001, he was also an adjunct professor at Chicago-Kent College of Law in the environmental program.

Maier says he was environmentally conscious growing up in Niles, a Chicago suburb, but not because his parents pushed him in that direction. He was more influenced by major events happening in the United States, like the civil rights movement, the Vietnam War and the oil crisis of the 1970s.

“Everything we touch and everything we do has environmental implications. You just have to be aware of them,” he says.

But as a lawyer who has both prosecuted and defended environmental cases, Maier never lets his personal views cloud his legal advice or delay practical solutions.

For him, environmental issues are not a moral imperative, rather they present practical problems. Many people he worked with in the public sector had difficulty making that distinction, Maier says.

“My personal views never affect how I address issues, analyze issues or formulate solutions. There is a name for people who do not allow personal views to drive legal solutions or affect how they address problems. They are called professionals,” says Maier.

Serving His Clients

According to Bruce White, an environmental attorney in Chicago for Barnes & Thornburg, LLP, Maier is one of the top attorneys in his field because of his experience on each side of the table, having worked for the Illinois attorney general and in private practice.

White says he and Maier worked closely together on Superfund litigation, a federal program designed to fund the cleanup of sites contaminated with hazardous substances and pollutants.

The federal government identified about 20 businesses in the Ellsworth Industrial Park near Chicago that allegedly spilled or accidentally released hazardous solvents into groundwater. The government claimed contamination of residential drinking water in the area.

“The issue was extremely complicated,” White says. “That case required the expertise of someone who had the background to understand the government’s views, as well as someone who understood what it would take for businesses to rectify the problem.”

Maier was a key force in orchestrating an arrangement that included government loans, grants and funding that resulted in 700 residents being hooked up to clean

water from Lake Michigan that ran through the La Grange water system, White says.

“Everyone came out ahead because of the structure of the deal he implemented,” White says. “(Maier) was able to do that because he knew what it was like to be on the government’s side and he understood their position.”

Ed Brosius, assistant general counsel for Amsted Industries Inc., says Maier has served as counsel for Amsted the past 15 years. Amsted is a global manufacturer of industrial components serving the railroad, vehicular and construction and building markets, according to the company’s website.

Like White, Brosius says, Maier’s varied experience makes him a trusted and valuable counsel. On more than one occasion, Brosius says, Maier helped negotiate solutions for Amsted that have been very favorable to the company.

“He can be very aggressive when he needs to be and a very much polished negotiator when need be,” Brosius says of Maier. “There are times for both.”

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In addition, Brosius says, he appreciates that Maier is a down-to-earth person who is comfortable visiting facilities and who understands the process that goes into manufacturing industries. On one occasion, Maier was asked to climb a 200-foot ladder and observe emission stacks, Brosius recalls.

“That’s not typical of a big-city lawyer, but Mike did that,” Brosius says. “He’s just a very good environmental litigator.”

Another one of Maier’s clients is CNA Financial Corporation, the eighth-largest commercial property and casualty insurance company in the United States.

Tim Minier, claims specialist with CNA, says Maier is on a small list of lawyers he calls on for matters involving complicated claims and needs someone who can be aggressive and attack the case.

In 2007, Minier says, he called Maier when the city of Gary, Indiana, brought a federal lawsuit against Paul’s Auto Yard, claiming the small business polluted soil and groundwater with lead and other toxins.

The case could have meant CNA, which provided insurance to Paul’s Auto Yard, would have been liable for millions of dollars in cleanup costs, Minier says.

However, Minier says, one of the problems with the city’s case, which Maier exploited, was the adjacent city landfill — the real polluter.

Suits by the government present unique challenges; but from the get go, Minier says, Maier’s experience and tenacity were on display. He prepared witnesses, even keeping them up to 1 a.m. so they would be ready to answer questions in the courtroom.

When the case went to trial, Minier says, Maier once again proved he was the right lawyer. That was especially evident when the city’s key expert from California testified that toxins emanated from the salvage yard. During cross-examination, Maier tore the expert apart, Minier remembers, discrediting the city’s case. The cross-examination was so powerful, he adds, that the judge even voiced displeasure with the city for bringing the case.

“(Maier) won the day and saved us one hell of a lot of money,” Minier says. “He did an outstanding job.”

Clients, Not Opinions

When he works on a case, Maier says, he leaves his opinions at the door and focuses on developing a strategy to a solution.

He remembers much earlier in his career when he worked as a prosecutor for the Illinois attorney general. Maier triggered a special board meeting of the IPCB on Christmas Eve. “I think I must have been a knucklehead for that,” Maier says. But several months after the meeting the chairman asked Maier to work for the IPCB.

Maier recalls an earlier conversation with the IPCB chairman. The chairman asked Maier how he decides to enforce a case. Maier’s response was simple: “The attorney general assigns me the case, so I prosecute it to the utmost.”

The chairman followed up with another question, Maier remembers. “The chairman asked me how I knew we were right. I told him, ‘I’m just the prosecutor. You (the Pollution Control Board) have to be right.’”

Several months later, after Maier took the job at the IPCB, the chairman walked into Maier’s office, looked him right in the eye and said, “OK, now you have to be right,” Maier says. “It was a moment of gravitas.”

Focusing on the task and issues at hand — and not getting caught up with a moral imperative — was something Maher tried to convey to his former students at Chicago-Kent College of Law. “Be passionate about your case. Be creative about solutions, but don’t have an agenda,” he cautioned.

“I used to tell them my mom has opinions on environmental issues and my wife does and my friends have lots of opinions, but I don’t,” Maher says. “What I have is clients with problems.”

For all his dispassionate lawyering, Maher half-jokingly remembers one moment when his emotions caught up with him when he was on the clock. While serving as a hearing officer at the IPCB in 1990, he got bad news only seconds before attorneys for the prosecution and defense walked into his office. He had just learned his dog had died.

“I had just hung up the phone with the veterinarian, who told me my dog was dead,” he says, “and I was sitting in my office with tears streaming down my cheeks when lawyers and a court reporter turned the corner and walked in. I could see the ashen looks on all their faces, as it’s not customary to have a crying hearing officer.

“They stopped in their tracks and were

clearly wondering, ‘What is going on?’ I could tell by their faces that everyone was concerned about the situation. I put my hand up and said, ‘It’s OK. I’m fine. My dog just died.’ It was like someone let the air tension out of a balloon. Everyone relaxed and took a breath. Then we immediately got on with the hearing.”

Helping Veterans Transition

While emotion doesn’t play a big part in his legal practice, Maher says, he’s proud of two nonprofits he volunteers for, Marines for Life and Sentinels of Freedom.

Marines for Life helps recently discharged veterans find employment, sometimes with national employers like Home Depot or railroads or other national operations. Sometimes smaller companies need help that a veteran can do. It’s an opportunity to put a veteran in direct contact with employers. It’s not a government agency, but it’s a bridge for many vets to help transition from the military to productive citizenry,” Maher says. “It’s really wonderful to see the look in their eyes when they learn a job and a life are available to them.”

Sentinels of Freedom is also special to him, Maher says, because the organization

helps veterans live a normal life after injury.

One instance, Maher says, was when the Sentinels helped a young marine who was blinded in an attack while serving in Afghanistan. The Marine had a wife and baby. The Sentinels connected this young Marine with an organization to teach him how to read Braille and navigate life without vision. But then it went further, Maher says.

The Sentinels helped this young Marine enroll in college, got his wife a job, and found daycare for their child. But this help came with strings attached, something Maher says he appreciates. This young Marine was required to report back regularly regarding the status of his studies and work.

“Sentinels of Freedom does a great job for people who have done more than their share,” Maher says. “The Sentinels do not view these vets as ‘damaged.’ The Sentinels believe their job is to get people to the other side, to be productive members of society.”

Like Maher’s own roadmap of 40 years ago, the Sentinels help to create a path so that veterans can live the rest of their lives. ■