

Sandy Stein

Fascinated by Evolving Law of Environment, Energy and Government

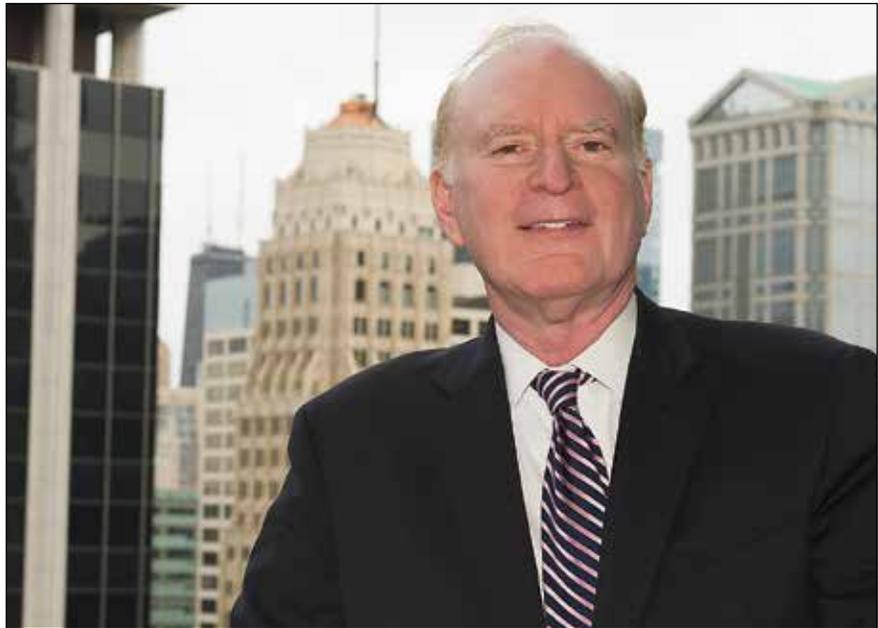
by Bob Yates

Sanford M. “Sandy” Stein has built a fascinating career. Now of counsel to **Miller Canfield**, the lifelong Chicagoan has parlayed a native curiosity into a 40-year career marked with an incredible variety of work that has taken him from the beginnings of environmental law, to China, to the Supreme Court, and to the beginnings of the law of cannabis.

They all seem to result from what you might call his open-desk policy. If it comes across his desk, he’ll take a look at it.

“I don’t turn things away,” he says. “I find I’m always very curious about the next new thing.”

Lawrence W. Falbe, a principal now with Miller Canfield, has worked with Stein in four different law firms for more than 20 years. He says Stein “is always looking around the corner. He’s a great lawyer who’s always interested in the bright shiny objects. He’s very refreshing, very collegial to work with. When I wasn’t with him, I’d feel a piece was missing.”



“I wear three hats,” Stein says, “environmental and energy work; land use and zoning; and government relations and lobbying. My practice is varied. I couldn’t do the same thing. I’ve let it evolve, let things come to me. It’s never dull. An older lawyer told me when I was a young lawyer, ‘Kid, you’ll never get rich, but you’ll never get bored.’”

And he hasn’t been bored.

Early Environmental Law

Stein was the first in his family to attend college. His father was in the printing trade and his mother did office and clerical work. The married father of two adult children (no grandchildren yet) went to the University of Illinois-Champaign and to George Washington University Law School, graduating in 1974. It was there that he discovered his first new thing, the fledgling area of environmental law.

“I had a law professor I happened to like who was the environmental law director,” he says. “It was in the very early stages of environmental law. I found it to be interesting, exciting, new, and socially redeeming and all that — pretty much an empty slate.”

After a brief stint with the Illinois Capital Development Board, Stein worked as an

enforcement attorney in the enforcement branch of Region 5 of the EPA, which covers six Midwestern states. “I was in the water enforcement branch, mostly Clean Water Act enforcement. Excellent experience.”

After three years with the EPA, Stein moved into private practice with the municipal law firm of Ancel Glink Diamond & Murphy (now Ancel Glink Diamond Bush DiCianni & Krafthefer).

“They needed an environmental guy. The Ancel firm works with a lot of suburbs. They had issues from time to time with enforcement of their duties, their responsibilities with water municipal law. A lot of what I learned there was municipal law, zoning and land use and urban development.”

The core of Stein’s work, and the continued focus of his career, has been the government, and its relationship with the public. Falbe says Stein started as a “pure environmental lawyer,” but that foundation has allowed him to expand into a multitude of areas.

Governmental, Private Cooperation

“I have always found government to be an interesting entity,” Stein says. “Not one

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that necessarily should be scorned, but one that certainly needs to be more efficient in its job to serve the public. I've always found that interesting.

"I've been retained by folks interested in providing technology. As with all these things, the demand to improve government service is there. Government has a great need to improve technology. The private sector has run away with it, and government has not caught up, and I'm involved now in procurement of technology companies for government service," he says.

"We need to demand better service from our government, and we also need to cooperate with the private sector when it should. It's a symbiotic relationship. Too often the private sector will demonize government and government will demonize the private sector. That is not productive. My role has been to find that middle ground where both sectors work together. That all started with my work in environmental law.

According to Lou Lang, the deputy majority leader of the Illinois House of Representatives, Stein's ability to talk to people "in a way that people can understand" is what allows him to bring people together, to find, as he says, a middle ground.

"His status in Springfield is near the top, Lang says. "Not every lobbyist is truthful, but Sandy always tells the truth, he's always believable. He's always professional, always knows his stuff. He has a thorough knowledge of the facts and how to get the best result for his client.

"We worked on medical marijuana legislation," Lang says. "Sandy helped to shape the legislation. When he became the attorney for potential licensees, he would come to me with ideas on how to tweak the legislation — sometimes we'd agree and sometimes we'd disagree. But the great thing is that he is always civil and states his case well and clearly."

Stein has also spent time in the international arena, working with the Chinese government on the possibilities of high-speed rail in Illinois. "I have contacts in China that evolved out of my government relations practice when the Obama administration was promoting high-speed rail. The law firm had some connections with the People's Republic of China — I got a chance to work with the Ministry of Railways. I have many friends there, but the inbound investment has begun to fall off, so it's less active of late."

Benefits of Biofuels

And now, he's working on biofuels, which, it turns out, is almost the flip side of the structure of environmental law.

"Environmental law is heavily regulatory. It is a top-down command-and-control structure to clean up environmental problems,

and I think they've done it very well over the last 40 years. The government followed a very strict set of commands."

Federal energy policy, he says, is much more positive, providing financial incentives to create new industries — grants and credits for wind, solar, and biofuels to stimulate those industries so they can begin to compete effectively.

"Biomass fuels have a lot of opportunity to develop real good, relatively clean fuels for use in cars, trucks, and other vehicles with our garbage," he says. "Some environmentalists don't like it because there is a carbon component to it. But the carbon component is not nearly as severe as the carbon release of coal and petroleum and those substances that have been buried in the ground for centuries. Plants grow and absorb the air. Plants cleanse the earth. Biomass is hopefully the next new thing in the energy world. I'm working with companies in that."

Now Stein finds that part of his practice has come full circle.

"What is interesting now is actually something that is emerging, but 40 years later — and it is cannabis law.

"In a very strange twist of fate, I have gone from an area where I once discovered environmental law as a brand-new, unregulated, uncharted, but important area to develop, and I find the same is true with the emergence of regulation of the cannabis industry in the United States. It's remarkably parallel to where environmental law was 40 years ago in many ways" Stein says.

"The demands for federal environmental legislation grew out of the social movement and commentaries of the late '60s, where people demanded an improved environment and government wasn't delivering that to them, and then they got very passionate about it. Starting with the federal government, we got the National Environmental Policy Act and the complex of laws that we now accept as what should be done.

"Very interestingly, the same kind of social demands of people in states to improve conditions in the health area are about to change federal policy toward another industry with an equal need for good sound laws, regulations, and lawyers who can manage both."

Stein's involvement with the cannabis issue has led him into the thicket of Indian law, an amalgam of federal, state and tribal laws, which fits in with his interest in government.

"The whole tribal thing is another fascinating chapter of our government. There is a whole interesting mix of laws that come into play. We all understand federalism; we understand states' rights and federal rights, and so forth. Overlay that with the rights of a sovereign nation among us, where states have no right of entry and the federal government has some. It's absolutely fascinating.

Supremely Interesting Highlight

That's next on his docket, but the highlight of Stein's career was arguing before the U.S. Supreme Court in 1997 in *The Steel Company vs. Citizens for a Better Environment*.

"A very simple matter came across my desk. It was the failure of a small company that was engaged in steel pickling — technically, it takes steel that comes out of a blast furnace and runs it through a lot of hydrochloric acid which will literally burn off the impurities in the steel and make it more productive and useful for products.

A lesser-known federal environmental statute called the Emergency Planning and Community Right to Know Act requires companies that store large amounts of toxic chemicals to report their location twice a year to the local fire department and to the state EPA.

"This company didn't comply with that reporting requirement for 7½ years. Back in the '60s and early '70s, the Democratic majority in Congress didn't trust the Nixon administration to enforce the environmental laws, therefore it gave citizens a private right of action to protect themselves and their health environment."

And the citizens' group exercised its right and filed suit against Stein's client. But under the National Environmental Policy Act there was a waiting period of 60 days: The citizens' group had to give notice and wait 60 days before filing suit. So the question became: What's the purpose of the 60 days?

"I always thought the whole purpose of the 60 days was to give the offending party time to cure the defect," Stein says. The company filed its community-right-to-know information on the 59th day. "That didn't absolve them of their wrongdoing in not filing, but in my mind they took away the citizens' right and gave that right to the EPA."

The fundamental issue that went to the Supreme Court was whether or not citizens have the right to sue for historical violations of environmental laws or whether that was strictly the province of the EPA.

"It became an interesting case on the law of standing for law geeks who like that sort of thing.

"A minority of the court found they could not sue once the company had cured the violations. The plurality opinion fashioned by Justice Scalia was more fundamental and I think more interesting, which was the fundamental rule of standing that the courthouse doors are not open to everybody with a gripe.

"Once the problem is solved there was nothing more the court could do to solve the problem, so they had no standing. We did cause the alleged injury to the plaintiff by not providing the information, but there was

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nothing more the court could do to redress the injury after we already redressed.

“It was absolutely fascinating arguing before the Court. I think the first 10 minutes or so was a proving ground — they wanted to see if this lawyer they had never seen before could argue his case. And then after that it became the most fascinating, interesting legal conversation I’ve ever had.

“If anybody worries about this country, those are nine people who are smart, they are prepared, and they’re real good. It was a very wonderful experience. We really had a great legal discussion together. It was cool.”

And that cool experience really captures Stein’s love for what he does.

“I’m fascinated by law,” Stein says. “Law holds societies together and has, ever since the codes of the ancients. Without rules and regulations there’s no balance, there’s no substance, we have anarchy. But the rules have to be fair. The Constitution strives for fairness. Despite the problems we constantly have, we’re always fighting for fairness. I like that about the American form of government, and that’s what I like about the law.” ■