

## MICHAEL S. BOGREN



**Partner**

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Michael S. Bogren is the managing partner of the firm's Kalamazoo office and Plunkett Cooney's Regional Office Department Leader. He is a member of the firm's board of directors, and has served as secretary of the board since 2003.

Mr. Bogren has extensive experience representing municipalities in both state and federal courts in police liability claims, first amendment law, due process claims, Open Meetings Act claims, FOIA claims, zoning matters, civil rights cases and employment litigation. He currently serves as the village attorney for the Village of Hopkins.

Mr. Bogren is a member of the Kalamazoo County and American bar associations, as well as the Public Corporations and Real Property sections of the State Bar of Michigan. He is also a member of the International Municipal Lawyers Association and the Association of Governmental Risk Pools.

Mr. Bogren graduated *cum laude* from Western Michigan University and received his law degree *cum laude* from the University of Detroit School of Law in 1982.

### Representative Client Work

- Successfully argued in Sixth Circuit that Congress lacked authority to abrogate States' Eleventh Amendment immunity under the Americans With Disabilities Act (ADA). Court agreed that there was not a sufficient record of constitutional violations established by Congress to authorize the abrogation under the Fourteenth Amendment.

### Areas of Practice

- Civil Rights
- Direct Representation of Municipalities
- Labor & Employment Law
- Municipal Law
- Zoning & Land Use

### Honors & Awards

- The Best Lawyers in America® for Municipal Law (Copyright 2009 by Woodward/White, Inc., of Aiken, S.C.), 2007 - 2010
- Martindale-Hubbell's highest rating-AV. AV is a registered certification mark of Reed Elsevier Properties, Inc., used in accordance with the Martindale-Hubbell certification procedures, standards and policies
- Michigan Super Lawyer in Government/Cities/Municipalities; Michigan Super Lawyers, a publication of Law & Politics magazine, 2008 - 2009
- Alpha Sigma Nu-National Jesuit Honor Society
- Justice Frank Murphy Honor Society

### Education

- University of Detroit School of Law, 1982, J.D., cum laude
- Western Michigan University, 1979, B.A., cum laude

### Bar & Court Admissions

- Michigan, 1982
- U.S. Supreme Court, 1992

- Obtained summary judgment on behalf of municipality sued for over \$80,000,000 after denying permit to build a 425-megawatt coal burning power plant on Lake Michigan. Court agreed that City's decision did not violate developer's constitutional rights of procedural or substantive due process or equal protection.
- Obtained summary judgment on behalf of retailer sued under 42 U.S.C. §1981 for detaining three African-American teenagers on suspicion of shoplifting. Court agreed that §1981 requires an attempt to purchase merchandise from retailer to come within "contract" language of the Act, and does not apply to actions that are "preparatory" to making a purchase.
- Obtained summary judgment on behalf of municipality sued under Telecommunications Act of 1996 after denying cellular provider's application to erect cellular tower. Court found that city's decision was supported by substantial evidence and did not have the effect of prohibiting wireless services.
- Obtained summary judgment on behalf of municipality and police officer sued under Fourth Amendment for using Taser to subdue high school student. Court agreed that use of the Taser was constitutional use of force to subdue student who was actively resisting attempts of police officer to take him into custody.
- Obtained summary judgment on behalf of municipality sued by pig farmer after enacting ordinance that limited number of swine that could be kept on property. Court agreed that ordinance was proper exercise of police power and advanced the public health and safety. Court rejected the farmer's argument that the ordinance violated substantive or procedural due process rights. Ruling affirmed by Sixth Circuit on appeal.
- Obtained summary judgment on behalf of municipality sued after police canine bit suspect during arrest. Court agreed that plaintiff failed to establish deliberate indifference on part of city in training its officers how to interact with police canines during a pursuit and arrest of suspect.
- Obtained summary judgment on behalf of employer sued for alleged Whistleblowers' Act violation. Court agreed that in order for a plaintiff to state a viable Whistleblowers' Act claim, the plaintiff must have reported a violation or suspected violation of an actual law. A plaintiff's subjective good faith belief that her employer's conduct violated "a law" would not be sufficient where there was no law in existence that actually prohibited the employer's conduct.
- Obtained summary judgment on behalf of public university sued for alleged Freedom of Information Act violation. Court agreed that "deliberative process" exemption under FOIA shielded information from being disclosed. Ruling affirmed by Court of Appeals and Michigan Supreme Court.

## Professional Affiliations

- Kalamazoo County Bar Association
- State Bar of Michigan (Public Corporations and Real Property sections)
- American Bar Association
- International Municipal Lawyers Association
- Association of Governmental Risk Pools

## Community Involvement

- Federalist Society

## Publications and Lectures

- Author – Chapter “Municipal Liability Under §1983” Sword and Shield Third Edition, ABA 2006
- Author – Chapter “Municipal Liability Under §1983” Sword & Shield Revisited, ABA 1998
- Author – “The Constitutionalization of Consortium Claims,” 68 U.Det.L.Rev. 479 (1991)
- Author – “The Continued Viability of a Federal Substantive Due Process Remedy in “Local Land Use Litigation,” Governmental Liability, May/June, 1991
- Lecturer on civil rights, employment law and zoning for the Michigan Municipal League

## Case Studies

- Plunkett Cooney helps municipality preserve environment along Lake Michigan's coastline
- Firm successfully defends Freedom of Information Act case which is upheld by Michigan Supreme Court

## Publications

- The Impact of Poor Zoning Decisions
- Proper Application of Zoning Laws Results in Dismissal of \$800 Million Claim

## News

- Plunkett Cooney attorneys among Michigan ‘Super Lawyers’
- Plunkett Cooney attorneys named among ‘Best’ in America
- Plunkett Cooney elects four to firm’s board of directors
- Plunkett Cooney attorneys among ‘Best’ in America
- Plunkett Cooney attorneys among Michigan ‘Super Lawyers’
- Plunkett Cooney Board of Directors re-elects Chairman, Secretary/Treasurer
- Plunkett Cooney attorneys among ‘Best’ in America