

## ENVIRONMENTAL

Decades of strategic case  
development and trial experience.

Environmental laws address problems arising from hazardous substances and their potential impacts on natural resources and human health. WSHB attorneys provide creative and cost effective legal solutions to the complex environmental problems. We effectuate early resolution and favorable settlement of environmental litigation; or, if the client's interests dictate, we litigate these cases aggressively and efficiently through mediation or trial.

Our Environmental Practice Group has extensive experience with:

### Pollution / Superfund Cases

WSHB attorneys have handled over 100 pollution and Superfund cases over the past 25 years. These cases range from small, accidental spills of waste to allegations of large-scale contamination in Superfund proceedings. The common thread in these cases, whether as plaintiff or defendant, is the need to minimize risk while pursuing efficient and timely investigation and cleanup of contamination. We zealously advocate for our clients as we work cooperatively with regulators, insurance companies and the other parties.

Parties to pollution cases are confronted with a labyrinth of ever-changing state and federal laws. The cases usually involve several parties who may have contributed to the contamination. A disproportionate share of liability is often a major concern of our clients since many environmental statutes do not require proof of fault in order to impose liability. We have the experience to position our clients for favorable settlements with federal and state regulators, as well as private parties who seek reimbursement of their environmental response costs. We have a track record of favorably resolving environmental cases in federal and state courts throughout California and the West.

An effective environmental litigation practice necessarily includes the retention of effective scientific experts and consultants. Members of our Environmental Practice Group are familiar with all of the prominent environmental consultants and experts and their particular areas of specialty in California and throughout the West. We retain only the best, most effective and responsive environmental experts and consultants for each case. We work closely with experts to ensure their energies are focused on areas of primary concern and to control what can often be very

### PROFESSIONALS

Tracy J. Abatemarco  
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Sheila E. Fix  
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Andrew J. Mallon  
Stacy Markie  
Samuel L. McDermott  
Janice M. Michaels  
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significant costs.

### Toxic Tort Litigation

Toxic tort litigation is one of the Environmental Practice Group's most active practice areas. We handle a variety of toxic tort cases, from claims of an individual to mass tort claims with hundreds of plaintiffs and nearly every conceivable kind of injury.

We have assisted our clients with scores of cases involving:

- Toxic mold
- Mixed dusts, including silica and asbestos
- Benzene and other constituents of gasoline and diesel
- Latex gloves and similar products
- Solvents, paints and other products containing aromatic hydrocarbons
- Hydrogen sulfide, hydrofluoric acid and similar substances used in the refining industry
- Asbestos
- Mixed product claims leading to so-called "multiple chemical sensitivity"
- Exposures to lead-based products
- Mixed exposure claims involving mold, asbestos, fiberglass and lead
- Exposure to iodine and gadolinium-based radiographic-contrast dyes
- Claims involving development of coccidioidomycosis and blastomycosis from naturally occurring environmental exposures

As with all our cases, we investigate the foundational issues first. Through focused investigation and aggressive litigation, we position our clients for the early, favorable resolution of toxic tort cases. We take pride in our ability to efficiently manage toxic tort and other complex, multi-party litigation. WSHB attorneys are known for forming and successfully utilizing strategic alliances to overcome discovery obstacles, promote early resolution, and share costs whenever practicable to save money.

### Asbestos

WSHB's Environmental Practice Group represents product, premises and public agency defendants in asbestos litigation. The product defendants include manufacturers, suppliers and retailers of asbestos-containing products, including insulation, automotive, friction, pumps and gaskets. Premises defendants include energy companies, movie studios, contractors and developers. The public agencies include school districts, municipalities and governmental agencies. Clients range

Jason R. Mullis  
Jacqueline Murphy  
Joel D. Odou  
Veronica M. Pakit  
Asha L. Renouf  
Timothy J. Repass  
Stephen William Rothring  
Ryan D. Schoeb  
Patrick S. Schoenburg  
William W. Silverman  
James P. Tyrie  
Thomas F. Vandenburg  
Charles R. Vogt  
David S. Webster  
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from target defendants to peripheral defendants. Injuries include pleural plaques, asbestosis, lung cancer and mesothelioma, as well as attendant claims such as emotional distress and fear of cancer.

Our Environmental Practice Group handles asbestos matters from inception through trial when applicable, we work closely with national coordinating counsel. Because of our extensive experience with these types of cases and our relationships with related asbestos professionals, we take a lean approach to staffing these matters. This results in significant cost savings to our clients.

To ensure consistent case management and both focused and dynamic litigation strategies, we work with clients of all sizes to customize and implement periodic reporting systems. With our proven approach, we have obtained several successful settlements and verdicts on behalf of many long-standing clients.

### Occupational Exposures

The firm's Environmental Practice Group handles a diverse range of bodily injury and wrongful death claims in state and federal court arising from occupational exposure to chemicals, dust, organic contaminants and other materials. We also advise clients on internal investigations, risk management, product disclosures and warning issues.

This area of practice has seen a steady diversification in the nature of actions brought against manufacturers and other potential defendants in the industrial setting. Dermal or respiratory exposure leads to injury claims ranging from lung disorders, such as pulmonary fibrosis or heavy metal lung disease, to leukemia and other cancers.

Like in other types of complex cases, we attack the foundational issues first. For instance, we determine whether exposure to a specific product can be proven. Product identification defense is often the least expensive means of extracting defendants from occupational exposure litigation.

We also investigate the length, concentration and circumstances of exposure to a particular product. Without this evidence, expert testimony related to dosage estimates is unreliable. On several occasions, we have obtained favorable results in occupational exposure litigation based in part on our ability to exclude expert testimony.

Finally, our clients benefit from our combined years of experience litigating and settling these cases. We know the lawyers, doctors, and other testifying experts who are routinely involved in them. We identify emerging trends in the litigation strategies and related science. We have successfully impeached plaintiffs' experts with their prior testimony. Our experience has allowed us to develop a broad network of defense experts associated with leading hospitals, medical schools and universities.

### Toxic Mold Claims

Harmful forms of mold can grow in homes, apartments, condominiums, schools, hospitals, stores, commercial buildings – any building where water has settled in the structure. We have successfully defended bodily injury and property damage cases originating at each of these types of sites.

Three of our primary practice groups – construction, environmental and personal injury – team up with our mold experts to resolve the majority of our toxic mold cases before trial, often for a fraction of the original demand. Whenever possible, we work with builders and developers to prevent mold claims from ever arising. We serve as national coordinating counsel for one of the country's largest home builders.

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WSHB attorneys in these practice groups also serve as national coordinating counsel for several major personal lines carriers and commercial lines carriers for the handling of toxic mold claims. Our attorneys have been admitted pro hac vice in over fifteen other jurisdictions to assist local counsel or to take the lead in defending such claims across the United States.

We are also responsible for the only published decision in California resulting in the exclusion of opposing parties' indoor air quality and medical causation experts in a toxic mold case.

Risk managers and insurance companies use our primer, "Defending the Toxic Mold Claim," as their go-to reference. Our toxic mold seminars are held in over ten U.S. cities and in London. Insurers, builders and even lawyers at rival firms attend our seminars for the latest business and legal strategies related to mold claims.

### Land Use Planning / Prop 65 and Compliance

Short supply and high demand for housing, coupled with a plethora of complex environmental laws and relentless opposition groups, have made the land use field one of the most contentious and highly scrutinized areas of the law in recent years. Our experienced team of land use and environmental attorneys guide landowners, developers and public entities through the obstacle course of land use and environmental laws in the local, state and federal arenas. We draw upon our broad experience to develop innovative and creative solutions to the most complex problems in matters involving the Subdivision Map Act, planning and zoning issues, endangered species, water quality and supply, environmental review, natural resources, air quality, wetlands and stream bed alteration.

We also handle complex California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) matters involving the preparation and review of, and litigation over, Environmental Impact Reports/Statements. Our services extend to assisting clients in obtaining all permits necessary for site development. This includes representation at public hearings, and drafting and negotiation of development agreements, easements and public improvement financing agreements. We also have extensive experience defending landowners and developers in administrative enforcement actions under the Clean Water Act, Porter Cologne Water Quality Control Act, California Fish and Game Code and both federal and state Endangered Species Acts.

Proposition 65 is a unique environmental regulation in California, with statutory penalties of up to \$2,500 per violation per day. Causes of action for violation of California's Unfair Competition Law (Bus. & Prof. Code, § 17200 et seq.) are often appended to these claims, further exposing the defendant to potential liabilities for attorney's fees and disgorgement of profits from the sale of targeted products for up to four years.

The Firm's Environmental Practice Group has extensive experience handling Proposition 65 and UCL cases. Our clients include the full range of businesses affected by these claims, from small manufacturers and distributors to nationally-recognized Fortune 200 companies. We are familiar with the enforcement strategies of the California Attorney General's Office and most private enforcers of Proposition 65 and UCL claims.

As soon as a 60-day notice of violation is issued, we work with our client to develop responsive strategies to reduce both health risks and the possibility of litigation. We take an aggressive approach to defense of these cases, requiring that enforcers produce admissible evidence to back what are often specious claims. WSHB's Environmental Practice Group aggressively challenges plaintiffs' cases with motion practice and focused discovery strategies. Most of these cases settle. With client collaboration, an aggressive litigation approach and an established trial practice, we have obtained many favorable resolutions in these types of cases.

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### EXPERIENCE

#### Sampling of Pollution / Superfund Cases

*We have handled over 100 pollution cases over the past 25 years. Here is a small sampling:*

- Represented a metal fabrication business in a case involving both an intrasite dispute and EPA claim; negotiated a nominal settlement where cleanup of VOC and perchlorate contamination was estimated to cost over \$70 million (San Gabriel Valley Superfund Site (SEMOU))
- Defended an aerospace manufacturer in private CERCLA recovery action (San Fernando Valley Superfund Site (Burbank))
- Represented a generator in a CERCLA case, defending claims of the Defense Steering Committee and EPA (Oil Landfill Superfund Site)
- Represented a transportation company in a private party CERCLA action involving alleged metals and petroleum hydrocarbon impacts to soil
- Defended a waste generator that received a Unilateral Administrative Order from EPA for wastes sent to a solvent recycling facility
- Represented generator in a \$13.2 million CERCLA suit for alleged contamination by VOCs, PCBs, heavy metal, and waste oil at a southern California waste recycling facility
- Defended a former car wash operator in a case involving common law claims by plaintiff for recovery of \$1.2 million in remediation costs
- Represent owners of dry cleaning businesses and gas stations and property owners leasing to such entities
- Defended an installer of a replacement underground gasoline storage tank, where a faulty leak detection system resulted in a multi-million dollar remediation
- Defended an owner of a printing graphics business in a UST/oil contamination case
- Represented a former owner of an automobile repair facility in a private CERCLA cost recovery action
- Representation of current and former owners and operators in actions brought by the United States Environmental Protection Agency, state and local government agencies, and private parties
- Ambient and subsurface investigation and remedial oversight in a variety of contexts, including landfills, recycling facilities, transportation depots, steel mills, dry cleaning facilities, abandoned mines, high-tech manufacturing, and other heavy to light industrial facilities

#### Sampling of Toxic Tort Cases

- Mass tort case involving multiple actions of several hundred plaintiffs for medical monitoring against alleged generators of chemicals
- Represented several generators at Oil landfill in suit by 116 nearby residents who alleged exposure to Oil's leachate. Defended against alleged damages of respiratory problems, seizure disorders, fear of cancer, emotional distress, and property damage
- Represented manufacturer of adhesives in personal injury suit filed by plaintiff who alleged development of multiple myeloma from long-term environmental exposure to adhesives and solvents

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- Represented developer of housing development in multi-party personal injury case filed by homeowners who alleged exposure to petroleum spills from above ground storage tanks
- Personal injury claim filed by construction worker who alleged development of leukemia from exposure to benzene fumes inhaled during excavation of leaking underground storage tank
- Plaintiff sued pesticide manufacturer alleging development of serious health problems resulting from exposure to spill onto plaintiff's skin
- Represented several large co-op high-rise apartments located in Manhattan in the defense of mass tort claims arising from exposure to mold, asbestos and lead
- Represented plexiglass defense contractor/manufacturer in action filed by Burbank area residents who claimed serious health problems from exposure to solvents via groundwater, air and soil at the San Fernando Valley Superfund site

### Sampling of Asbestos Cases

- *Surprenant v. Asbestos*, Defendants, Los Angeles County Superior Court: Secondary exposure personal injury mesothelioma case involving a movie studio as a premises defendant that favorably resolved during trial before verdict
- *Gersten v. Asbestos Corp.*, Alameda County Superior Court: Personal Injury Mesothelioma case involving national construction project manager and national engineering company resulting in defense verdict
- *Evans v. AW Chesteron*, Los Angeles County Superior Court: Secondary exposure personal injury mesothelioma case involving nation's second-largest municipal energy provider, case taken through trial with favorable result involving sliding scale settlement
- *Galicinao v. Asbestos*, Defendants, Los Angeles County Superior Court: Wrongful death case involving national supplier of industrial supplies resulting in summary judgment based on causation and manner and method of product identification
- *Cazier v. Atlas Turner*, San Francisco County Superior Court: Personal injury lung cancer case; represented several public school districts resulting in early resolution based on Motion for Judgment on the Pleadings based on Claim Presentation Act in Government Code
- Regularly counsel clients regarding regulatory compliance with AHERA and SCAQMD statutes and responding to notices of violations
- Jury Rejects Plaintiffs' \$3.5 Million Demand in Complex Inverse Condemnation Trial  
11.9.17
- 2017 Mold Litigation Update – Big Dollars, Questionable Claims Reflect Continuing Trends  
2.13.17
- WSHB Case Update: Defense Summary Judgment in Landmark Pesticide Exposure/Birth Defect Action  
2.9.17

### NEWS

- Superstar Environmental Litigator Joins WSHB  
Newsroom, 1.23.17