

COST RECOVERY LITIGATION (SUPERFUND/CERCLA AND STATE EQUIVALENTS)

OVERVIEW

Lawyers in BCLP's environmental CSG are experienced in the defense and prosecution of cost recovery, contribution, and citizen suit cases of varying size and complexity in federal and state court. We have represented clients involved in significant cost recovery and contribution actions under CERCLA, RCRA, and their state analogs in a number of jurisdictions. The breadth of our experience provides the judgment and insight necessary to effectively counsel clients in settlement negotiations, alternative dispute resolution, and forceful, yet cost-effective, litigation.

We have litigated and resolved cases complicated by diverse issues, including deficient documentation of waste origination, complex disputes over cost-causation, concurrent toxic tort litigation, and the presence of numerous potentially responsible parties. This experience, coupled with our regular interaction with technical consultants and expert witnesses in fields such as hydrology, geochemistry, environmental engineering, hydrogeology, limnology, toxicology, and risk assessment, enables us to achieve favorable results for our clients facing or pursuing complex claims involving scientific issues and long-term historical contamination. We regularly manage the discovery process in matters involving significant quantities of technical information, frequently in electronic or "e-discovery" form. We also draw upon the experience and technical capabilities of BCLP's general litigation practice group and its specialists in management, defense, prosecution, and resolution of complex commercial litigation.

MEET THE TEAM



Lee Marshall

Global Department Leader – Litigation
& Investigations, San Francisco

lee.marshall@bclplaw.com

+1 415 675 3444



Liz Blackwell

Partner, St. Louis

liz.blackwell@bclplaw.com

+1 314 259 2513



Paul J. Lopach

Partner, Denver

paul.lopach@bclplaw.com

+1 303 866 0207



Bryan E. Keyt

Partner and Global Practice Group
Leader - Energy, Environment and
Infrastructure, Chicago

bryan.keyt@bclplaw.com

[+1 312 602 5036](tel:+13126025036)

RELATED PRACTICE AREAS

- Energy Transition

EXPERIENCE

- Representing an international mining company in a multi-party cost recovery litigation and settlement related to the release of mining wastes over a hundred year period into a central Arizona creek drainage basin at various locations by different mine operators.
- Representing a natural gas utility related to a historic manufactured gas plant site on the shores of a major water body in Vermont in the negotiation of a consent decree, including preparing a RI/FS, implementing a clean up plan, and participating in the settlement of cost recovery and contribution claims among the responsible parties at the site.
- Representing a memory disk storage manufacturer in negotiations with EPA and a state agency resulting in a consent decree for clean up costs and natural resources damages related to a recycler who had released mixed hazardous wastes into the soil and groundwater in Oklahoma.
- Representing a pesticide manufacturer in negotiations with other larger generators and the government who sent materials to a chemical reformulator in Tennessee which disposed of its wastes outside its plant in leaking tanks, buried drums and surface releases.

- Representing a paper and tape generator in negotiations with the government and private parties related to a major regional hazardous waste disposal and recycling facility located adjacent to a bayou in Louisiana which released its wastes to the soil and groundwater.
- Representing a manufacturer in negotiations with the government and other parties related to a recycler located adjacent to a major river in Kansas which resulted in a consent decree for clean up liability.
- Representing an air conditioner manufacturer in negotiations with the government and private parties in a multi-party municipal landfill resulting in a consent decree and settlement in Arizona.
- Representing a manufacturing company initially identified by EPA as the only known generator at an NPL site in New York and persuading EPA to name other corporations as PRPs at the site, ultimately leading to a settlement in which our client paid only a small fraction of EPA's response costs at the site.
- Representing the owner of a 22-acre landfill in recovering more than \$8 million in remediation costs from generators at a site in New York.
- Representing a major industrial corporation identified by EPA Region III as the principal PRP with respect to contaminated sediments at a major river basin.
- Representing a transporter in obtaining summary judgment at a large landfill site in New York on the ground that the transporter did not select the site as the waste disposal site for the generator.
- Representing generators at numerous multi-PRP sites in New York and New Jersey.
- Representing landlord in cost recovery litigation against tenant at a public school in New York City.
- Representing an oil trust in a federal court trial relating to a private party contribution action which focused on the fate and transport of chlorinated solvents and allocation of costs between the parties. The court concluded our client's contribution to be approximately 1.5 percent.
- Successfully negotiating the terms of a consent decree on behalf of an industrial entity in an NPL Superfund site in Arizona for which the estimated cost of cleanup exceeds \$500 million.
- Representing a responsible party in a Superfund site in the State of Washington and successfully negotiating the terms of the consent decree in a Superfund matter with cleanup costs in the range of \$500 million, while minimizing the exposure of our client to de minimis status.

- Counseling a large mining client in preparation for a response to a 104(e) Questionnaire and multi-media inspection of a mine in northern Arizona and successfully negotiating with EPA to avoid further Superfund liability.
- Representing a primary responsible party in a federal Superfund enforcement action which was the first in Arizona and successfully negotiating a consent decree with the EPA after bringing contribution actions against thirteen additional parties and obtaining approximately 85% of the costs sought by the government in the contribution action filed against the PRPs.
- Representing the owners of an abandoned mining site in Arizona involved in a Superfund remedial investigation/feasibility study and successfully negotiating an alternative resolution of the matter with the enforcement agency for which the estimated cost for cleanup exceeded \$10 million.
- Participating in complex mediated negotiations on allocating response costs among over 50 parties and serving as one of four representatives selected by the PRP group to negotiate response costs and other settlement terms with the federal government.
- Representing an owner in overseeing litigation of a Superfund claim involving PCBs and a dispute with EPA over the scope of 106 orders and cost recovery against utility PRPs.
- Representing the Kuwait government in its claims against Iraq before the United Nations for costs associated with damages, remediation, investigation and monitoring arising out of the attacks and terrorism during the Iraqi invasion.