

Kurt Peterson



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Partner

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PRACTICE SUMMARY

Kurt's environmental law practice focuses on hazardous waste cleanup, cost recovery and allocation of environmental liabilities under federal and state Superfund laws, with a particular emphasis on sediment cleanup and landfill sites. He navigates environmental cleanup and brownfields real estate redevelopment process in order to efficiently resolve liabilities at federal and state hazardous waste cleanup sites for his clients. Kurt represents a wide range of entities, including Fortune 500 companies, big cities and counties, local and regional businesses, ports, small municipalities, environmental trusts and public agencies. Kurt has recovered significant cleanup costs from other responsible parties in contribution litigation and from claims under historic insurance policies. In addition to litigation successes, he also has helped clients reach favorable results through allocation arbitrations and mediations. Kurt has a wealth of experience in locating and pursuing valuable insurance assets to cover environmental cleanup costs.

REPRESENTATIVE WORK

Represents clients at federal and state Superfund hazardous waste sites (MTCA and CERCLA sites), including advising clients on agency-lead and voluntary cleanups, risk management counseling and negotiations with EPA and the Department of Ecology (and other federal, state and local governmental agencies) on orders and consent decrees.

Assists clients with recovery of past and future cleanup costs in cost allocations and private party contribution claims under state and federal laws.

Represents clients at contaminated sediment cleanup sites under CERCLA or state Superfund laws, including extensive experience on cleanup and allocation work at the Lower Duwamish Waterway Superfund Site, Portland Harbor Superfund Site, Western Port Angeles Harbor Site, Thea Foss and Wheeler Osgood Waterways and the Hylebos Waterway.

Defends companies in toxic tort litigation arising out of injuries allegedly caused by exposure to environmental contaminants, including products liability claims and class action odor litigation.

Defends companies in Clean Water Act Citizen Suits and agency enforcement matters, including compliance with NPDES and state permits for discharge of stormwater and wastewater.

Represents corporate and municipal clients in allocation and resolution of Natural Resource Damage claims, including allocation proceedings, development of restoration projects, early settlements and challenges to Trustee assessments.

PUBLICATIONS

"Washington Real Property Deskbook Vol. 7 Supplement," Washington State Bar Association, September 2018

Editor, Chapter 2, Comprehensive Environmental Response, Compensation and Liability Act (CERLA or Superfund)

Editor, Chapter 16, Insurance Issues for the Insured

Editor, Chapter 17, Insurance Issues for the Insurer

Author, Chapter 10, Minimizing Hazardous Waste Liability in Real Estate Transactions

"Creative Legal Strategies for the Unique Challenges Public Entities Face in Sediment Cleanups and Cost Allocations," Author, Ninth International Conference on Remediation and Management of Contaminated Sediments, Battelle Memorial Institute, January 2017

"Using Environmental Trusts to Facilitate Settlement and Cleanup at Complex Cleanup Sites," Author, Ninth International Conference on Remediation and Management of Contaminated Sediments, Battelle Memorial Institute, January 2017

"Structuring Effective Alternative Dispute Resolution Under CERCLA: Key Questions to Consider in Drafting an Allocation Process Agreement," Co-Author, Alternative Dispute Resolution Committee Newsletter, American Bar Association Section on Environment, Energy, and Resources, Vol. 11, No. 2, July 2015

"Efficient and Effective Strategies to Address the Unique Challenges Public Entities Face in Sediment Cleanups and Cost Allocations: A Legal Perspective," Author, Battelle Memorial Institute, 2015

"Minimizing Hazardous Waste Liability," Author, Washington State Real Property Deskbook, Washington State Bar Association, 4th Ed., 2013

"Washington State Real Property Deskbook," Co-Editor, Washington State Bar Association, 2002 and 2013 Supplement

"Brownfields: A Comprehensive Guide to Redeveloping Contaminated Property," Author, Washington State Chapter, American Bar Association, 2d. Ed., 2002

"Sediments," Author, Association of Washington Business Environmental Deskbook, 2002 and 2004 Ed.

"Risk Assessments," Author, Association of Washington Business Environmental Deskbook, 2002 and 2004 Ed.

"State Environmental Cleanup: MTCA," Author, Association of Washington Business Environmental Deskbook, 2004 Ed.

Represents environmental trusts in insurance recovery cases arising out of CERCLA cleanup and natural resource damage liability at state and federal Superfund sites in Washington, Oregon and Idaho.

Represents clients in regulatory enforcement proceedings and appeals, including defense of penalties, orders or permits.

Negotiates prospective purchaser agreements with regulatory agencies and other stakeholders to support the sale and acquisition of contaminated properties.

Assists clients with the purchase, sale and leasing of real estate with potential or known contamination issues.

Advises clients about compliance with environmental regulatory requirements, including negotiations with governmental agencies on enforcement and permitting issues.

Advises purchasers and sellers about environmental liabilities in real estate and corporate transactions, including due diligence.

Advised the Washington State Department of Ecology on a broad range of regulatory issues, including hazardous waste cleanups under MTCA, water quality, dangerous waste, nuclear waste, sediment cleanup, air quality, forest practices and public disclosure.

ACTIVITIES

Washington State Bar Association, Environmental and Land Use Law Section, Member

Oregon State Bar Association, Environmental and Natural Resources Section, Member

American Bar Association
Section on Environment, Energy, and Resources,
Member

Superfund and Natural Resource Damages
Litigation Committee, Vice Chair

King County Bar Association, Environmental Law
and Land Use Section, Member

Prescolar Alice Francis, Board of Directors, 2005-
2014

Hilltop Children's Center, Strategic Planning
Committee, 2015

PRESENTATIONS

"Creative Legal Strategies for Sediment Cleanup & Cost Allocation," Speaker, CERCLA + MTCA, Battelle Sediments Conference, September 2017

"Model Toxics Control Act," Speaker, 60th Annual WSAMA Spring Conference, April 2017

Ninth International Conference on Remediation and Management of Contaminated Sediments, Speaker, Battelle Memorial Institute, January 2017

"Creative Legal Strategies for the Unique Challenges Public Entities Face in Sediment Cleanups and Cost Allocations"

"Using Environmental Trusts to Facilitate Settlement and Cleanup at Complex Cleanup Sites"

"Environmental Issues in Leasing," Speaker, 28th Annual Advanced Conference on Commercial Real Estate Leases, Law Seminars International, December 2016

"Takeaways From Real Life Case Studies," Speaker, Foster Pepper 2016 Real Estate/Land Use Briefing: Essential Industry Updates, November 2016

"Gull Industries and the State of Coverage for MTCA Claims," Speaker, Model Toxics Control Act CLE Seminar, Law Seminars International, 2015

"Efficient and Effective Strategies to Address the Unique Challenges Public Entities Face in Sediment Cleanups and Cost Allocations: A Legal Perspective," Speaker, Eighth International Conference on Remediation and Management of Contaminated Sediments, Battelle Memorial Institute, 2015

"CERCLA Allocation and Cost Recovery – Who Is Going To Clean Up This Mess?" Speaker, Environmental Cleanup Conference CERCLA & MTCA – Advanced Sediments, 2015

"Environmental Insurance Claims after Gull Industries," Speaker, Environmental and Land Use Law Section Midyear Conference, Washington State Bar Association, 2015

"Leveraging Insurance Assets for Environmental Cleanup," Speaker, Association of Washington Business Environmental Summit, 2006