



Environmental Law/ Toxic Tort

360°

Morris Polich & Purdy has more than 30 years experience representing parties in environmental matters - we represent clients in individual, mass tort and class action litigation seeking damages for injuries and deaths allegedly caused by exposure to chemicals or other environmental hazards. Our extensive experience in this area has helped us to develop numerous strategies for seeking early dismissal of our clients from these costly claims.

We have experience in all areas of environmental law, including:

- Chemical and toxic exposure
- Contamination of land, water and air
- Hazardous materials
- Proposition 65
- Superfund litigation

We have served a wide range of public and private clients, including, for example:

- Manufacturers and distributors of chemicals
- Manufacturers and designers of chemical protection equipment
- Property owners and construction-related entities in mold cases
- Individual producers and generators of allegedly hazardous substances in matters relating to Superfund liability

We have appeared as counsel both in regulatory agency proceedings and in litigation involving alleged violations and permitting matters arising under:

- California Environmental Quality Act ("CEQA")
- Comprehensive Environmental Response Compensation and Liability Act ("CERCLA")
- Porter-Cologne Act, California Water Code § 13240, et seq.
- Clean Water Act, Total Maximum Daily Loads, NPDES permitting, enforcement actions
- Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C.
- California Proposition 65
- Endangered Species Act
- Underground/Aboveground Storage Tanks, California Health & Safety Code §§25270, et seq.
- Lempert-Keene-Seastrand Oil Spill Prevention and Response Act

A CROSS SECTION OF OUR EXPERIENCE

- MPP acted as counsel at the trial and appellate phases of a seminal CERCLA decision in the Ninth Circuit Court of Appeal concerning prior owner liability. The plaintiffs sued an assortment of public and private entities seeking recovery for the costs of removing hydrocarbon contamination from a wetlands area. We convinced the Court to uphold the dismissal of all CERCLA claims against our client, who was the prior owner of the property. That decision, which was rendered by the en banc panel of the Court, has been the subject of extensive nationwide commentary.
- We currently represent a landowner with regard to efforts to remediate extensive groundwater contamination in the South Bay area of Los Angeles County. The property was the location of an aircraft parts manufacturing plant for several decades. On and off site releases of TCE, PCE and Chromium 6 have been identified in both soil and groundwater. We acted as the client's representative in extensive negotiations with the Regional Water Quality Control Board to obtain approval for a cutting-edge in situ remediation technology.
- In a published decision, MPP won a summary judgment motion exonerating our clients from liability under CERCLA on the grounds that the clients did not participate in the disposal of contamination.
- We represented the San Bernardino Municipal Water Department in consultation with the U.S. Fish & Wildlife Service regarding the Santa Ana suckerfish. Our client is one of the few to be excluded from critical habitat designation proposed for this species.
- We represented a chemical manufacturer in a multi-party products liability case where the plaintiff sued over 30 companies, alleging terminal injuries from use and exposure to various products during his employment at industrial manufacturing facilities. Utilizing focused and aggressive pre-trial discovery, we prevailed on summary judgment challenging the sufficiency of plaintiff's product identification evidence.
- We represented several defendants in a series of complex cases involving allegations of progressive lung injuries caused by exposure to aluminum oxide and other metal dusts common in manufacturing processes. The plaintiffs sued dozens of chemical, machinery and raw material suppliers on negligence, fraud

and strict liability theories. The plaintiffs sought punitive damages. Our attorneys were successful in a summary judgment on behalf of certain defendants by convincing the Court to extend the “bulk supplier defense” to manufacturers of grinding and cutting machinery. Before this ruling, no California court had extended that defense to machinery manufacturers.

- We represented a contractor in a case involving alleged injuries to teachers and students who were exposed to chemicals emanating from roofing system components during roofing work at several schools in a Southern California school district. We established at arbitration that the roofing system could not have caused the alleged injuries.
- We obtained summary judgment for a client in a case involving the deaths of three water treatment plant workers caused by exposure to sulfur dioxide. We established that our client's product did not cause the release of sulfur dioxide.
- We represented a premises owner in a case involving allegations of severe bodily injuries caused by long-term exposure to significant levels of mold. Our attorneys were successful in convincing the trier of fact that, according to the weight of established scientific evidence, mold could not have caused the alleged injuries.
- A Caltrans employee suffering from cancer and lung disease sued a number of chemical manufacturers contending that his exposure to herbicides and pesticides used in controlling freeway vegetation caused his injuries. Based on our analysis of voluminous Caltrans records and technical literature, we were able to demonstrate an absence of any causal relationship between plaintiff's injuries and our client's product, and we were able to obtain a dismissal.
- We obtained a dismissal of a wrongful death case against a supplier of various upholstery and other products in which it was alleged that the decedent's exposure to our client's adhesive products during his employment as an upholsterer caused the decedent to suffer fatal liver disease and liver cancer.
- In a private CERCLA action, we represented the former owners of a mobile home park that included a wetland area. Lead and crude oil contaminated the wetland. We obtained a summary judgment for our clients at the trial court level. The decision was upheld by an en banc panel of the Ninth Circuit Court of Appeal.

A CROSS SECTION OF OUR EXPERIENCE (CONTINUED)

- We defended a private CERCLA action filed in U.S. District Court for the Eastern District of California. The plaintiff, a California city, claimed that our client's shipbuilding operations contaminated industrial property on the Sacramento Delta.
- We represented a former lessee who was sued by a local redevelopment agency under California's Polanco Act. The agency alleged that our client was responsible for the costs of investigating and remediating soil and groundwater contamination on industrial property.
- We represented the owner of a ski area in the San Bernardino Mountains in an environmental damage and Proposition 65 action. The case was successfully settled and the Proposition 65 action was dismissed.
- We represented a construction company in a criminal action arising from an alleged violation of local air quality standards.
- We represented a municipal entity in the preparation of studies and research in support of a CEQA Report on a large publicly funded project.
- In a private matter, we represented the interests of a large multi-national entertainment conglomerate in complying with the various hazardous waste disposal/handling/storage, water quality, air quality, and storm water discharging guidelines. The client's manufacturing arm had not complied with the governing agencies' requirements for several reporting periods and was faced with substantial penalties. We obtained a dismissal of the pending action by the creation of a comprehensive environmental, health and safety program.
- MPP has also litigated against the State Water Board. In one case, our client sought to enjoin the Board from withdrawing from an agreement to issue a No Further Action Letter with regard to Volatile Organic Compound contamination that threatened groundwater. The case was satisfactorily resolved by settlement.
- We also currently represent clients in cases concerning MTBE contamination of groundwater, the investigation of soil and possible groundwater contamination by Volatile Organic Compounds allegedly released by a medical device manufacturer, and the heavy metal contamination of nutritional supplements.



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