

# **CLIENT COUNSELING**

**William J. Stack**

Over the course of a 36 year career with Exxon and Exxon Mobil Corporation, Mr. Stack provided legal advice and counsel to various departments within Exxon Corporation. In addition to managing and trying environment and toxic torts claims, Mr. Stack was frequently called upon to provide legal advice on:

- Permitting issues;
- Regulatory compliance issues;
- Claims management issues; and
- Contractual issues.

Mr. Stack provided legal advice to refinery management in New Jersey, retail marketing and management nationwide, coal and minerals management in Colorado and Wyoming and chemical manufacturing management in both New Jersey and Texas. This included giving advice and developing strategies regarding permitting under State and Federal laws and regulations relating to wastewater discharges, airborne emissions, hazardous waste handling and disposal and mine reclamation and restoration. Mr. Stack also handled enforcement and compliance issues for refining, marketing, mining and maritime management. During the course of his career, Mr. Stack handled numerous arbitrations involving represented employees and provided representation in Federal Court to employees in the marine department who received Coast Guard citations attempting to revoke their licenses to operate company vessels.

For the period from 1983 through 1987, Mr. Stack's trial team handled employment discrimination claims and litigation on behalf of the Company and advised management on employee relations issues. During the period from 1986 through 2000, Mr.

Stack handled environmental and toxic tort claims and litigation which also entailed providing legal advice and counsel regarding:

- 1.) emergency responses to product leaks, spills and other environmental incidents;
- 2.) offering relocation or compensation to homeowners affected by leaks, spills or other environmental releases;
- 3.) providing bottled water, filter systems or alternate water supplies to residents with contaminated potable wells;
- 4.) managing and directing consultants and contractors engaged in emergency response actions;
- 5.) evaluating Supplemental Environmental Projects to offset alleged violations of State and Federal statutes and regulations;
- 6.) evaluating product health and safety issues;
- 7.) evaluating product warnings and information;
- 8.) supervising and directing compliance audits;
- 9.) providing comments on proposed agency guidelines and regulations;
- 10.) providing guidance regarding media relations and public affairs issues relating to claim and litigation.

In addition to providing advice to counsel and management in various Company operations, Mr. Stack also handled environmental and toxic torts claims and litigation for Exxon's marketing function. This included all claims and litigation regarding leaking underground storage tank systems and releases from marketing terminals and related pipeline facilities. Mr. Stack supervised a staff of attorneys and other professionals handling these

matters from 1986 until the Exxon-Mobil merger in 2000. This included establishing and supervising a team of Regional Counsel in discrete geographic regions of the country to assist the Company in handling these matters. The claims and litigation filing rate peaked in the late 1980's at over 120 cases per year to and averaged approximately 60-100 per year over the course of the 1990's. A list of some of the environmental, toxic tort and other cases tried by Mr. Stack are attached to this biographical information.



**WILLIAM J. STACK**

**Relevant**

**Litigation Experience**

## **Toxic Torts**

### **1. *Allison v. ExxonMobil* (2011; State Court – Baltimore County, MD)**

Mr. Stack served as co-lead defense counsel responsible for experts in a toxic tort suit alleging exposure to benzene, MTBE and other gasoline constituents in drinking water. He conducted depositions of percipient and expert witnesses; handled *Frey* hearings for expert challenges; briefed and argued motions to exclude experts; cross-examined experts and Plaintiffs at trial. The Maryland Court of Appeals overturned the judgment for Plaintiff rejecting their experts and rendering judgment for Defendant on the claims of approximately 600 Plaintiffs for personal injury, property damage, medical monitoring and emotional distress.

### **2. *Alban v. ExxonMobil* (2012; State Court – Baltimore County, MD)**

Mr. Stack served as co-lead defense counsel responsible for experts in a toxic tort suit alleging exposure to benzene, MTBE and other gasoline constituents in drinking water. He conducted depositions of percipient and expert witnesses; handled *Frey* hearings for expert challenges; briefed and argued motions to exclude experts; cross-examined experts and Plaintiffs at trial. The Maryland Court of Appeals overturned the judgment for Plaintiffs' rejecting their experts and rendering judgment for Defendant on claims of approximately 250 Plaintiffs for personal injury, property damage, medical monitoring and emotional distress.

### **3. *Cabell v. Mobil, et al.* (2002; State Court – Luzerne County, PA)**

Mr. Stack served as lead defense counsel responsible for this class action toxic tort case alleging personal injuries including Acute Myelogenous Leukemia, Multiple Myeloma, Non-Hodgkin's Lymphoma, and Chronic Myelogenous Leukemia due to exposure to benzene vapors inside Plaintiffs' homes. He conducted depositions of experts and treating physicians in class action phase of the proceeding. At trial, Mr. Stack conducted examinations of all witnesses in class certification proceedings and argued against class certification on behalf of Defendants.

Class certification for 1100 Plaintiffs was denied and their personal injury claims dismissed and/or settled on favorable terms.

**4. *Koch v. Exxon* (2012; State Court – Harford County, MD)**

Mr. Stack served as co-lead defense counsel responsible for deposing class representatives and experts in a putative class of approximately 200 Plaintiffs seeking personal injury, medical monitoring and property damage damages. He assisted in drafting opposition to class certification. Class certification was denied. The matter was re-filed on behalf of individual Plaintiffs and resolved after the decision of the Maryland Court of Appeals in the *Alban* and *Allison* cases. (See numbers 1 and 2.)

**5. *Scavone v. Exxon, et al.* (1995; State Court – Worcester County, MA)**

Mr. Stack served as lead defense counsel responsible for this toxic tort case alleging personal injuries, medical monitoring and emotional distress stemming from benzene and MTBE contamination of drinking water. He assisted in preparation of motions to exclude evidence and for Summary Judgment on these claims. Plaintiffs' counsel dismissed these claims prior to the Court's ruling, and the case proceeded to trial on Plaintiffs' property damage claim. The Court entered judgment for Exxon on Plaintiffs' property damage claims.

**6. *Cloninger v. Exxon, et al.* (1996; State Court – Mecklenburg County, NC)**

Mr. Stack served as co-lead defense counsel responsible for experts in a putative class action for approximately 500 Plaintiffs alleging personal injuries, emotional distress, medical monitoring and property damage related to emission of benzene from a major petroleum terminal complex in Charlotte, North Carolina. After an evidentiary hearing and argument, the court rejected Plaintiffs' medical and toxicological experts, and the case proceeded forward on

Plaintiffs' property damage claims. Plaintiffs' property damage claims were settled prior to trial on favorable terms.

**7. *Binieck v. ExxonMobil* (1999; State Court – Somerset County, NJ)**

Mr. Stack served as lead defense counsel responsible in this consolidated plaintiffs' case with 30 individuals alleging personal injuries, medical monitoring and property damage related to benzene in their potable wells. The case dismissed after motions to exclude experts and motions for partial summary judgment.

**8. *Moore v. ExxonMobil* (1985; State Court – Gloucester County, NJ)**

Mr. Stack served as lead defense counsel responsible for experts in a consolidated plaintiffs case for 40 individuals alleging property damage, emotional distress and personal injuries, including leukemia lymphoma and birth defects related to benzene in drinking water. The case resolved after Defendant moved to exclude Plaintiffs experts' opinions which failed to account for the lead Plaintiff exposure to radiation, methotrexate and chloramphenicol as the cause of Plaintiffs' leukemia, birth defects and other alleged personal injuries.

**9. *Santucci v. Exxon, et al.* (1986; State Court – Ocean County, NJ)**

Mr. Stack served as co-lead defense counsel in this class action alleging personal injuries, emotional distress and property damage stemming from benzene, MTBE and chlorinated solvent contamination of well water. The class action was dismissed after briefing and argument and the Plaintiff re-filed the action as a consolidated plaintiffs' case. Plaintiffs' claims for personal injury and medical monitoring were voluntarily dismissed after further expert discovery and the filing of motions to preclude Plaintiffs' medical and toxicological experts from opining on the cause of various medical conditions allegedly caused by water contamination, including chemical cardiomyopathy, leukemia and lung cancer. The case proceeded to trial as a property

damage case and settled on the eve of trial. (This incident is related to the case captioned *In Re Lacey Municipal Utilities Authority* listed in the Environmental Torts section of this compilation.)

**10. *Makofski v. Exxon* (1999; State Court – Harris County, TX)**

Mr. Stack served as co-lead defense counsel in this consolidated plaintiff's case alleging personal injuries, including leukemia, anemia, asthma and immune dysfunction stemming from benzene contamination in drinking water six of the 150 Plaintiff's cases were selected for trial. The jury award was set aside on appeal and verdict rendered for the Defendant. The claims of the remaining personal injury claims were dismissed and/or settled.

**11. *Jackson v. Exxon* (2008; State Court – Ocean County, NJ)**

Mr. Stack served as lead defense counsel responsible for experts in this consolidated plaintiff's case with claims by 30 families alleging personal injury, emotional distress and property damage allegedly caused by benzene emissions from service station operations and remediation. The case settled favorably after an evidentiary hearing where the Court excluded the testimony of Plaintiff's expert on toxicology.

**12. *Walls, et al. v. Exxon, et al.* (2000; State Court – Bergen County, NJ)**

Mr. Stack served as lead defense counsel in this consolidated Plaintiffs case alleging personal injuries, emotional distress and property damages. This case settled after the filing of motions to exclude Plaintiffs' medical/toxicological expert on causation of Plaintiffs' bladder cancer and leukemia.

**13. *Adams, et al. v. Exxon, et al.* (1993; State Court – Atlantic County, NJ)**

Mr. Stack was co-lead counsel in this trial of property damage and emotional distress claims by 86 families in the Pomona Oaks subdivision alleging gasoline contamination in their private wells from a nearby Exxon station. Mr. Stack was involved in deposing percipient and expert witnesses and handling motions to exclude Plaintiffs' experts. Plaintiffs initially asserted personal injury, medical monitoring and fear of cancer claims which were dismissed after

briefing to exclude the testimony of Plaintiffs' experts. After a 4 month trial and repeated demands for millions of dollars to settle the matter, the jury awarded \$900K to all Plaintiffs.

## **Environmental Torts**

### **1. *Laezza v. Exxon* (1991; State Court – Ocean County, NJ)**

Mr. Stack served as co-lead defense counsel at the trial of this suit brought by a service station dealer for property damage caused by benzene and gasoline contamination in soil, groundwater and a neighboring municipal well field. The jury returned a defense verdict.

### **2. *Lacey Municipal Utility Authority v. Exxon, et al.* (1992; State Court – Morris County, NJ)**

Mr. Stack served as co-lead defense counsel at the trial of this claim by a municipal water utility to recover the cost of installing new wells and a water supply system for all homeowners with private wells contaminated with benzene and MTBE. The homeowners were all residents of the Deer Lake subdivision and were Plaintiffs in the *Santucci* case. (See item number 10 on the list of Toxic Tort matters.) The Court entered judgment for Exxon.

### **3. *JDG Twinbrook v. Exxon, et al.* (1998; State Court – Montgomery County, MD)**

Mr. Stack served as lead counsel at this trial of a claim by neighboring developer that benzene contamination in groundwater caused property damage to its office complex. The jury returned a defense verdict. This verdict was appealed to the Maryland Court of Appeals. Mr. Stack served as lead counsel on the appeal and argument before Maryland's highest Court. The verdict was affirmed.

### **4. *Plainview Water Utility v. ExxonMobil* (2006; Nassau County, NY)**

Mr. Stack served as lead defense counsel at this trial of claims by a municipal water utility that MTBE and benzene released into the groundwater at a nearby Mobil and other stations posed an imminent threat to the township's water supply wells. The Court returned a defense verdict.

**5. *Dash Point Associates v. Exxon* (1997; King County, WA)**

Mr. Stack served as lead defense counsel at this trial of a claim by a neighboring mall owner that gasoline contamination in groundwater had migrated under the property and caused over \$30M in property damages. The jury returned a verdict for \$6,700.00.

**6. *REA Partnership v. Exxon, et al* (1992; State Court – Jefferson County, CO)**

Mr. Stack served as co-lead trial counsel in this trial of claims by neighboring property owner for property damage and economic damages caused by gasoline contamination in groundwater beneath Plaintiff's commercial property. The jury returned a nominal amount of one of Plaintiff's several claims. The case settled favorably on appeal.

**7. *Farley, et al. v. Mobil, et al.* (2007; State Court – Luzerne County, PA)**

Mr. Stack served as co-lead trial counsel in this trial of property damage claims by residents affected by gasoline contamination in groundwater and benzene vapors in their homes caused by a leak at a Mobil supplied station and auto repair facility. The jury returned a defense verdict against the initial group of Plaintiffs, and the remaining cases were dismissed or settled favorably.

**8. *Walton v. Exxon* (1990; State Court – Monmouth County, NJ)**

This suit was brought by property owner for response costs and property damage allegedly caused by gasoline contamination from leaking tanks and remedial activities at an Exxon Station. Prior to trial, the Court conducted a Preliminary Hearing regarding the admissibility of evidence. Mr. Stack served as lead defense counsel at this hearing. Cross-examination of the Plaintiff revealed this contested evidence was fabricated and inadmissible. The case later resolved favorably.

**9. *Bruni v. Exxon, et al.* (1994; State Court – Allegheny County, PA)**

Mr. Stack served as co-lead counsel in this suit was brought as a class action, but, after discovery of the class representatives and their experts, the Court denied class certification on Defendant's motion. Suit brought by consolidated Plaintiffs in Pittsburgh for property damage, emotional distress and personal injuries stemming from gasoline vapors and benzene entering their homes from the municipal combined storm sewer system. The case was tried to a jury and settled favorably during the course of trial.

**10. *Taylor v. Exxon, et al.* (1994; State Court – Worcester County, MA)**

Mr. Stack served as co-lead counsel in this suit brought by property owner alleging emotional distress and property damage related to gasoline contamination in their household well. Plaintiff's pre-trial damage demand was for millions of dollars. A total of \$37,000 was awarded by the jury for all claims.

**11. *Castles v. Exxon* (1997; Federal Court – Western District of NC)**

This lawsuit was brought by neighboring property owner for property damage and economic damages related to alleged gasoline contamination from an Exxon Terminal leak. Mr. Stack served as lead trial counsel. The jury awarded property damages but no economic damages. The judgment was appealed for inconsistencies in the verdict and was settled after argument in the 4<sup>TH</sup> Circuit.

**12. *State of NJ v. Mobil, et al.* (2001; State Court – Mercer County, NJ)**

This claim was brought by the State for Natural Resource Damages, response and oversight damages. Mr. Stack was co-lead counsel for the defense handling percipient and witness depositions. Exxon filed a Motion for Summary Judgment arguing there was insufficient

evidence to support the State's expert opinions and, therefore, the case should be dismissed. The Court granted Exxon's Motion for Summary Judgment.

**13. *Harthman v. Esso, et al.* (1995; Federal Court – USVI)**

This suit was brought by the owner of the largest shopping mall on St. Thomas alleging property damage as a result of gasoline contamination in groundwater beneath Plaintiff's property. Mr. Stack served as co-lead defense counsel handling all experts and the *Daubert* hearings before the Court. After conducting *Daubert* hearings, the Court precluded Plaintiff's property damage expert offering his opinions at trial. Immediately thereafter, the case settled on favorable terms.

**14. *City of Merced v. ExxonMobil, et al.* (2011; State Court – Merced County, CA)**

This suit was brought by the City of Merced for millions of dollars to address gasoline contamination threatening or affecting its municipal water wells. Plaintiff sought millions in damages for installation of monitoring wells, groundwater remediation, water testing and treatment. Mr. Stack served as co-lead defense counsel at trial handling expert witnesses. The jury awarded Plaintiff \$157,000 in damages against Exxon and the case was settled on appeal.

**15. *City of New York v. ExxonMobil, et al.* (2009; Federal District Court – SDNY)**

Suit brought by City for treatment of MTBE in groundwater from releases of gasoline from Exxon, Mobil and other Stations in Queens. Mr. Stack served as lead counsel on expert issues at trial. In a phased and contentious trial, the jury awarded damages against Exxon of \$104M. The verdict was upheld by the 2<sup>nd</sup> Circuit.

**16. *State of New Hampshire v. ExxonMobil* (2013; State Court – Merrimack County, NH)**

This lawsuit was brought by State of New Hampshire for Natural Resource Damages caused by releases of MTBE from all service stations, junkyards and other facilities. Mr. Stack assisted lead counsel at trial. The jury returned a verdict of \$236M which is now on appeal.

**17. *Bruno v. Exxon, et al* (1987; State Court – Middlesex County, MA)**

Mr. Stack served as lead defense counsel for Exxon in this case involving claims for personal injury, emotional distress brought by 20 homeowners in Waltham, Massachusetts. The jury rendered a verdict for Exxon finding all the contamination at issue emanated from a local trucking company facilities.

**Other Trial Experience**

**1. *Garcia v. Exxon Corp.* (1986; State Court – Kleberg County, TX)**

Mr. Stack was lead trial counsel in this lawsuit alleging wrongful termination based on national origin. After a weeklong trial, the jury returned a defense verdict.

**2. *Murray v. Exxon* (1989; Federal Court – Eastern District of Pennsylvania)**

Mr. Stack served as co-lead defense counsel in this lawsuit alleging wrongful termination based on handicapped discrimination. The case settled during jury deliberation.

**3. *Exxon v. Lukens Steel* (1988; Federal District Court – Cheyenne, WY)**

Mr. Stack served as co-lead trial counsel in this lawsuit to recover damages caused by a breach of contract by pipeline supplier for Exxon's LaBarge Project. Mr. Stack conducted all fact and expert discovery and examined percipient and expert witnesses at trial. The jury returned a verdict awarding Exxon \$7.9M.

**4. *Parachute Joint Venture v. Exxon* (1983; Federal District Court – Denver, CO)**

Mr. Stack conducted all discovery and assisted trial counsel in this lawsuit for fraud and breach of contract brought by a real estate developer in Garfield County. Plaintiff alleged Exxon knew it would shut down its Colony Shale Oil Project fraudulently leading Plaintiff – and other developers – to invest in commercial and industrial developments to support Exxon’s Oil Shale facility. After a three week trial the jury returned a defense verdict and found for Exxon on its counterclaim.

**5. *In Re Montrose Electric Cooperative* (1982; Colorado Public Utilities Commission – Denver, CO)**

Mr. Stack served as lead counsel in opposing an electric utility rate change for electric power supplied to Exxon’s Ute Mountain Project oil and gas production and processing facilities. The rate increase involved proposed rate hikes increasing power costs over the life of the project of \$3.2B. Exxon succeeded in opposing the rate hike which was upheld by the Supreme Court of Colorado.

113806649v1