

## REPRESENTATIVE CASES

- Carla Clark, et al. v. The City of Santa Rosa, et al., Sonoma County Superior Court, Case No. SCV 227898. Mr. Dongell was the lead trial counsel in this matter. Mr. Dongell represented the City of Santa Rosa in an action for personal injuries and inverse condemnation brought by 32 plaintiffs alleging damages of \$650 million due to PCE contamination allegedly associated with the City's sewer system. Erin Brockovich organized the Plaintiffs, and the case received significant press attention. Plaintiffs claimed that PCE leaked from the City's sewer system into their private drinking water wells. Mr. Dongell worked closely with City Officials and technical experts to develop an effective, factual defense demonstrating that the City's sewer system was not a conduit for contamination. This defense demonstrated that the City was at the leading edge of PCE regulation, and was diligent in its inspection and maintenance of the sewer lines at issue. Mr. Dongell also pursued motion practice to invoke several governmental immunities designed to limit or defeat Plaintiffs' prosecution. The last pre-trial demand was for \$24 million. The case proceeded to trial; however, on the first day of trial, the court granted our partial Motion for Summary Judgment, along with several critical Motions in Limine that essentially crippled the Plaintiffs' case against the City. Plaintiffs then agreed to settle out with the City for \$1.5 million.
  
- 3000 E. Imperial LLC v. Robertshaw Controls Company, et al., USDC, Central District, Case No. CV0803985. Mr. Dongell was lead trial counsel in this 7 day trial. Mr. Dongell represented Whittaker Corporation ("Whittaker"), a leading defense contractor. Plaintiff, a sole-purposes entity, purchased a piece of property in Lynwood, CA (the "Property) for redevelopment purposes, despite knowing that it was contaminated. Plaintiff sued certain former owners and operators that once owned and/or occupied the Property seeking the recovery of its incurred and anticipated future costs resulting from the cleanup of the Property contamination that they claim originated from these former owners and/or operators. Plaintiff's RCRA claim for past costs was \$6 million and Plaintiff's estimated future damages were in excess of \$10 million. Our evaluation of Plaintiff's damages and its future cleanup costs were much less than what Plaintiff had proffered. Despite numerous attempts to resolve this matter prior to trial, it ultimately went to trial. Following trial, the Judge denied Plaintiff's \$6 million RCRA claim and found that Whittaker was only liable for a portion of the damages suffered by Plaintiff, and dismissed the only claim that gave rise to Plaintiff's attorney fees. Notably, Plaintiff's State law claims were never heard; the Judge declined to retain jurisdiction over those claims. Plaintiff ultimately sought to enforce the Judgment, but Mr. Dongell filed an Appeal of the Judge's ruling with the Ninth Circuit, and thereby stayed the execution of the Judgment. Plaintiff then re-filed its State law claims in Los Angeles Superior Court, but Mr. Dongell had that matter stayed pending resolution of the Appeal. Ultimately, Mr. Dongell was able to successfully resolve the matter for a fraction of what Plaintiff had demanded at trial, resolving both the Appeal and pending State law claims.
  
- Rhonda Holmes v Courtney Love, Los Angeles Superior Court. This was the landmark case the national media dubbed the "Twibel Trial". This was a case of first impression nationally to proceed to a jury trial and involved issues of libel law and

remarks made on Twitter and other social media. The case received tremendous media attention, nationally and internationally, ranging from the New York Times and L.A. Times, to the national broadcast ABC Good Morning America to daily trial coverage by all three local news channels. Mr. Dongell was retained to take the case from another firm 3 months prior to the trial. Mr. Dongell was not the lead trial lawyer but handled the matter along with his then-partner John Lawrence and developed an entirely new and different discovery, motion and trial strategy that ultimately prevailed.

- California Earth Corps v. State Lands Commission and City of Long Beach, Sacramento Superior Court Case No. 01CS01556. On behalf of the nation's leading shopping center developers, Mr. Dongell defended an action brought by a consumer group challenging the approval of a land exchange underlying the development of The Pike – a major waterfront development in the City of Long Beach. After Mr. Dongell achieved victory at the trial level, the decision was reversed on appeal. Subsequently, however, the Supreme Court of California granted our petition to review the appellate court decision (despite such petitions being rarely granted). During the pendency of the Supreme Court's review, the legislature passed and Governor Schwarzenegger signed (over the objection of the consumer group) a law explicitly authorizing the type of land exchanges being challenged, thus rendering the appeal moot. The consumer group nonetheless attempted to claim victory based on these developments and file a motion in the trial court seeking nearly \$1.5 million in attorney fees. Mr. Dongell successfully defeated this motion, demonstrating that the consumer group had not provided a "substantial benefit" to the public, and establishing that the primary effect of the litigation was the passage of legislation that the consumer group opposed. The trial court agreed, and rejected the consumer group's fee request. While the legal victory was noteworthy, underlying this matter was the fact that this was a waterfront development that involved significant regulatory hurdles with the California Coastal Commission and the California State Lands Commission, which Mr. Dongell was able to successfully overcome due, in part, to our regulatory experience.

- In Rod Stewart v. American Casualty, Los Angeles Superior Court, Case No. BC141713. Mr. Dongell was lead trial counsel in this one week trial involving the rock star, Rod Stewart. Mr. Dongell successfully obtained a full defense verdict against contract and bad faith claims made by rock star, Rod Stewart, and by his legal counsel, Christensen, Miller, et al.

- Jack Engle & Co. v. M.H. Whittier Company Ltd., USDC, Central District, Case No. 96-6477. Mr. Dongell represented Jack Engle & Company ("JEC"), a large broker and processor of ferrous and nonferrous scrap metals, stainless steel, and high temperature alloys, in connection with a cost recovery action against several PRPs responsible for historical PCB contamination found at JEC's property. Mr. Dongell's efforts in locating the former employee and developing his testimony proved vital to proving JEC's success, which led to the recovery of \$2.8 million from these PRPs – an amount sufficient to cover JEC's total cleanup costs. Significantly, this was one of only two environmental cases featured in Settlement & Verdicts, Year-In-Review edition, a publication of the Los Angeles Daily Journal. Notably, Mr. Dongell was recognized for

his creativity and persistence in investigating and developing evidence of contamination activities that occurred over fifty years ago.

- United Alloys, Inc. v. Harold A. Baker, et al., USDC, Central District of California Case No. CV 93-4722 RMT (Ex). Mr. Dongell was lead trial counsel in this 10 day trial. Mr. Dongell represented United Alloys, Inc. (“United Alloys”), in a CERCLA/RCRA matter involving contamination of a property owned by United Alloys in Los Angeles, California. United Alloys sought reimbursement of response costs from parties potentially responsible for the contamination, including prior owners and operators, as well as Burlington Northern Railroad and United Pacific Railroad for operations of a spur track where releases of contamination took place. Prior to trial, United Alloys settled its claims against the Railroads. After a two-week trial, United Alloys was granted judgment in its favor against a prior operator at the property for 66% percent of the contamination.
- California Earth Corps. v. U.S. Battery Manufacturing Company, Riverside County Superior Court, Case No. 277313. Mr. Dongell was lead trial counsel in this trial, which Forbes Magazine profiled. Mr. Dongell successfully defending at trial this nationally significant case involving a private enforcement action under Proposition 65’s “bounty-hunter” provisions.
- Accuride International Inc. et al. v. Parco, Inc. et al., San Bernardino County Superior Court, Case No. RCV 052978 (consolidated with RCV 053938). Mr. Dongell was lead trial counsel in this 10 day trial. Mr. Dongell represented Accuride International, Inc., the world’s largest manufacturer of commercial/industrial slide devices, in a cost recovery action concerning who should be responsible for the cleanup of historical VOC and PCB contamination found at one of Accuride’s facilities in Ontario, California. Prior to trial, Mr. Dongell eliminated a \$1.4 million breach of contract claim filed by defendant, Parco, Inc., against Accuride by way of summary adjudication. Thereafter, on the first day of trial no less, Parco offered to pay \$400,000 to settle. Accuride declined the offer, and the bench trial commenced, which took place before the Honorable Martin Hildreth. After the close of evidence, Parco initiated further settlement discussions with Accuride, which resulted in a payment of \$1.35 million by Parco to Accuride – the total estimated cleanup costs. Coupled with the breach of contract victory, this resulted in a 2.75 million swing in Accuride’s favor.
- Slottow v. American Casualty Company of Reading, Pa., 10 F3d 1355 (9thCir. 1993). Mr. Dongell was lead trial counsel in this retrial. This case concerned underlying litigation involving the directors and officers of Fidelity Federal Bank. The retrial resulted in one of the nation’s most favorable rulings for directors and officers liability insurers for allocating liability between a corporate entity (a non-covered liability) and directors and officers (a covered liability).
- People v. New Frontier Trading Corporation, et al., Los Angeles Superior Court, Case No. BA062242. In this case, Mr. Dongell obtained a very favorable and creative plea bargain agreement concerning 52 felony counts of unlawful transportation of hazardous waste. This was the first joint environmental enforcement

action brought by the Los Angeles District Attorney and Mexico.

- Adame, et al. v. State of California, et al., Santa Clara County Superior Court – Complex Division, Case No. 1-08-CV-106710. Mr. Dongell represented the Regents of the University of California (the “Regents”) in a toxic tort exposure case brought by 133 plaintiffs who reside or previously resided near a 17-acre property in Santa Clara, California, known as the Bay Area Research Extension Center (“BAREC” Site). Plaintiffs alleged damages of \$550 million. The Regents operated this facility for agricultural research from approximately 1921 through 2003. Plaintiffs claimed that pesticides from the BAREC Site had contaminated their properties and caused a cancer cluster in the neighborhood. We were able to negotiate a \$1.5 million settlement of all claims against the Regents.

- Baykeeper, et al. v. Kaiser International, et al, USDC, Central District of California – Eastern Division, Case No. CV 97-07761 DDP (Crux). Mr. Dongell represented National Metal & Steel Corporation (“National”) and American Bulk Loading Enterprises, Inc. (“ABLE”) in this matter wherein Santa Monica Baykeeper and the Port of Los Angeles sued several parties to force a cleanup of copper contamination in Los Angeles Harbor. Mr. Dongell’s clients were historical tenants of the Port and operators of a bulk loading facility therein. The Port claimed that its cleanup costs for dredging the contamination allegedly caused by our clients were in excess of \$50 million. By successfully challenging the remedial approach proposed by the Port, aggressively prosecuting historical PRPs, and developing a compelling case that the Port’s true purpose was to dredge for the economic benefits of accommodating larger container ships – and not for environmental reasons – Mr. Dongell was able to reach a settlement, in which our clients contributed only \$1 million – despite the fact that our client was the Port’s main target for cost recovery. Another important factor in reaching such a favorable settlement for our clients was Mr. Dongell’s pursuit of 20 generator defendants who were forced to significantly contribute toward a global settlement.

- Tyco Thermal Controls v. Rowe Industries: USDC, Northern District of California, Case No. 3:06-07164 NC. Mr. Dongell represented Pentair Thermal Management, formerly known as Tyco Thermal Controls, LLC (“Tyco”), which is the present owner of property in Redwood City, California (the “Site”). Rowe Industries, LLC (“Rowe”) is the successor-in-interest to former operators at the Site. After PCB contamination was found at the Site, Tyco sued Rowe under CERCLA to recover the costs for the investigation and clean-up of the Site. Rowe denied liability, cross-complained for contribution, and claimed that Tyco failed to comply with the National Contingency Plan (“NCP”) in performing the remediation. In a 45 page opinion providing its findings of fact and conclusions of law, the Court, after an eight day bench trial, found in favor of Tyco on the majority of issues submitted. Ultimately, the Court issued a judgment in favor of Tyco and against Rowe for \$3,599,998.72, and awarding Rowe nothing on its cross-complaint. Additionally, the Court issued an order finding that Rowe is liable for 100 percent of all necessary future costs of remediating PCB contamination at the Site that are consistent with the NCP.

- City of Rialto et al. v. United States Department of Defense, USDC, Central District of California, Case No. 09-7501 PSG; City of Colton v. American Promotional Events, Inc.-West, et al., USDC, Central District of California, Case No. 09-1864 PSG; United States v. Goodrich Corporation, et al., USDC, Central District of California, Case No. 10-824 PSG; State Water Resources Control Board File No. A-1824/ City of Riverside v. Black & Decker (U.S.), Inc., et al., Los Angeles Superior Court, Case No. BC410878. Mr. Dongell represented Whittaker Corporation in connection with complex, multi-jurisdictional, and multiple party (in excess of 40 parties) litigation and administrative proceedings involving CERCLA cost recovery and RCRA cleanup actions brought by the United States Environmental Protection Agency, the City of Rialto, and the City of Colton; enforcement action by the State and Regional Water Boards; and state law claims by the City of Riverside which claim response costs associated with alleged perchlorate contamination in their respective city wells and have alleged that land formerly owned and allegedly operated by Whittaker Corporation, within an industrial area known as the Rialto Ammunition Storage Point and home to many explosives and fireworks manufacturers throughout its 50-year history, is partly responsible for the contamination. The total claim for cleanup costs, other damages, and attorneys' fees exceeded \$250 million. Mr. Dongell successfully negotiated a favorable "cash out" Consent Decree that settled all of the federal claims for a tiny fraction of the claimed costs and fees.

- Mr. Dongell originated, organized, and represented large defense groups against Superfund actions in several cases, including Courtaulds Aerospace, Inc. v. William C. Huffman, et al., USDC Eastern District of California, Case No. CV-F91-518 OWW; State of California v. Southland Oil, Inc., et al, USDC Central District of California Case No. 92-6344 WJR; and Department of Toxic Substance Control v. Interstate Non-Ferrous Corporation, et al., USDC Eastern District of California, Case No. CIV-F-97-5016 OWW DLB.

- Prentice, et al. v. City of Berkeley, et al., Alameda County Superior Court, Case No. RG 03 133031. Mr. Dongell represented the Regents of the University of California in this complex environmental and inverse condemnation action brought by several plaintiffs involving damage claims regarding the Regents' development of its real property located in the Strawberry Creek Watershed in Berkeley, California. The real property and facilities at issue include the campus of the University of California, Berkeley and the facilities located at the Lawrence Berkeley National Laboratory.

- Orange County Water District v. Northrop Corporation, et al., Orange County Superior Court, Case No. 04CC00715. Mr. Dongell represented Meggitt Defense Systems ("Meggitt") in this multi-party groundwater cleanup action brought by the Orange County Water District ("OCWD") that was seeking in excess of \$100 million in cleanup costs. This matter involved numerous defendants and cross-defendants, all of whom were alleged to have conducted manufacturing operations involving the use of VOCs during various periods from the 1950s to the 1990s. Meggitt, which had allegedly conducted operations in the general area since the 1980s, was brought into this action through a cross complaint filed by another major aerospace corporation.

After investigating the matter and the evidence regarding Meggitt's operations, Mr. Dongell moved for summary judgment arguing that the evidence did not support a causal link between Meggitt's alleged use of VOCs and the contaminated groundwater. Based on that motion, and the strength of the evidence cited to therein, the aerospace corporation dismissed Meggitt, rather than suffering a potential loss and the negative implications it would have on its claims against other parties it had sued.

- United States v. El Dorado County, et al, USDC, Eastern District of California, Case No. S-01-1520 MCE GGH. Mr. Dongell represented El Dorado County, California, in connection with CERCLA claims brought by the United States regarding the Meyers Landfill Site ("Meyers"), a former municipal landfill site which operated from the early 1950's to the early 1970's. In connection with that representation, Mr. Dongell filed and prosecuted a Third Party Action naming 12 additional defendants as PRPs for the contamination at Meyers, which resulted in a seven figure settlement providing significant additional remediation funds. In addition, Mr. Dongell worked closely with technical experts to conduct site investigation meant to assist in the development of a cost-effective remedy for the site.