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**NEWSLETTER
SUMMER/FALL 2021**



BDOU Reopens Office After Year of COVID

Like every other business, Bergman Draper Oslund Udo has faced huge challenges to our organization during the COVID pandemic. In March 2020, our office abruptly shut down in accordance with the Washington and Oregon State stay-at-home orders and we had to quickly pivot to a remote firm. However, through our tenacity, creativity, and advanced technology, BDOU met those challenges and continued to provide unparalleled service to our clients throughout the pandemic.

Client Meetings

Preparing our clients for litigation and communicating with them about their cases are two of the most important aspects of our legal representation. With the shutdowns, masking, and need for social distancing, we could no longer safely meet with our clients as we normally do – face-to-face, in their homes. Vanessa Oslund recalls in the early days of the pandemic meeting a client recently diagnosed with mesothelioma in his yard, in the rain. The client signed the necessary paperwork to start his case on the hood of her car under an umbrella as the spring rain fell. Throughout April

Continued on page 4

BDOU's Specialized Knowledge of Northwest Jobsites Results in \$4.2 Million Verdict for Seattle Mesothelioma Victim



Lockheed Shipyard 1960s

Doug Everson was exposed to asbestos as an electrician at Lockheed Shipyards from 1970 through 1971 while working about the USS Shreveport and USS Bagley (DE-1069). These duties brought Doug into the crowded engine spaces in close proximity to other trades such as machinists, pipefitters and insulators. He observed insulators pouring dry insulation in fifty-pound sacks and mixing the insulation in

buckets and recalled this created “a lot of dust.”

Almost 50 years later, Doug was diagnosed with mesothelioma and with his wife Diane hired BDOU to prosecute a lawsuit against the manufacturers and suppliers of the asbestos products that he was exposed to. Due to the passage of time, Doug could not remember the brand of insulation cement that was used in his proximity or the

Continued on page 4

BDOU Helps Negotiate \$610 Million Settlement for Benefit of Northwest Asbestos Victims

In 1943, Owens Illinois faced a decision on whether to enter the asbestos insulation business and received the following recommendation from its doctor: “the fact that you are starting with asbestos would certainly suggest that you have all the ingredients of a first-class hazard.” Owens Illinois ignored this sound advice and from 1948 to 1958 manufactured and sold asbestos-containing “Kaylo” pipe insulation. Kaylo was used at shipyards, power plants, wood processing facilities, aluminum

smelters and other industrial facilities throughout Oregon and Washington exposing hundreds of thousands of workers and their families to deadly asbestos fibers. Seventy-five years after Owens



Continued on page 5



Matt Bergman Reflects on 25 Years Representing Mesothelioma Victims

Matt Bergman will never forget the day he met Jewell Glass, the first mesothelioma victim he represented. “Jewell was a 72-year-old African American man who grew up on a farm in rural Mississippi in the 1930s. After World War II, he moved north and found work as a ship scaler in the Seattle shipyards. In the early 1950s,

the ship scalers were the only union that admitted African Americans and Jewell worked in the bilges of ships, scraping rust from metal plates and cleaning up asbestos debris, never knowing he was exposing himself to deadly toxins.” Forty years later, Jewell was diagnosed with mesothelioma and met Matt for the first time. “I was immediately struck by Jewell’s dignity and grace,” Matt remembers, “though lacking in formal education, Jewell possessed deep wisdom born from years of struggle and great spiritual courage as he confronted his deadly disease.” Matt and his partner successfully negotiated a significant settlement for Jewell while he was living which provided him with material comfort in his lifetime and satisfaction that his family would be taken care of when he passed. “Jewell had experienced struggle and discrimination his entire lifetime and it was an honor to fight for justice on his behalf,” Matt remembers.

Twenty-five years later, Matt feels the same impact every time he meets a new mesothelioma client. “I have represented over 650 mesothelioma victims since I met Jewell, shared their life stories and guided them through the rough-and-tumble of litigation.” Every client has a unique life experience and distinct asbestos exposure history that must be thoroughly explored to secure the full compensation they need and deserve. “Clients can’t open up to you unless you abandon all pretense and open your heart and soul to them,” Matt says. “The bonds we form with our clients are deep and everlasting; I regularly hear from clients we represented 20 years ago who remain grateful for our work on their behalf.”

Within 10 years that Matt started representing asbestos victims, manufacturers of asbestos products who were originally litigation defendants all filed for bankruptcy. Matt was appointed by the United States Trustee to serve on the creditors’ committees in 15 of asbestos bankruptcies and worked to secure over \$20 billion to set up settlement trusts for present and future victims. Matt was also at the forefront nationally of identifying new asbestos defendants to substitute for the companies who had filed for bankruptcy and developing of theories of liability to provide a source of recovery for injured victims. His innovative legal theories have resulted in numerous appellate decisions which

greatly expanded the rights of asbestos victims to recover the compensation they need and deserve. Based on these efforts, qualified mesothelioma victims in Washington and Oregon can not only seek recovery from asbestos product manufacturers but also from a broad array of Navy equipment manufacturers, mechanical contractors, premises owners and asbestos products manufacturers.

Matt and his partners Glenn Draper, Vanessa Oslund and Chandler Udo have built BDOU into a litigation powerhouse, the largest and most respected law firm in the Pacific Northwest focused on the representation of mesothelioma victims. BDOU has developed specialized knowledge and experience on the particular Oregon and Washington worksites where asbestos was used and the companies responsible for exposing workers there. BDOU has taken over 50 cases to trial, secured over 25 written opinions from appellate courts, and recovered over \$950 million in compensation for their clients.

Unlike large out-of-state law firms who advertise nationally, BDOU continues to focus on Washington and Oregon clients. “Every state is unique in terms of the jobsites where victims are exposed to asbestos and the law governing how asbestos cases are litigated,” he explains. “By focusing exclusively on Washington and Oregon, our clients can benefit from our 25 years of experience and our reputation for excellence among local judges and lawyers.” “Our reputation is not based on slick TV advertisements offering free books to potential clients but rather rests on our 25 years of experience working with opposing lawyers, judges and juries in Washington and Oregon to obtain outstanding recoveries for our clients.”

As BDOU embarks on its next 25 years, Matt and his partners Vanessa Oslund and Chandler Udo continue to deploy the client-focused representation, innovative legal advocacy and indefatigable work ethic that has cemented the firm’s reputation in the Pacific Northwest. “As I look to the next generation of leadership, I think of how much has changed since Jewell first walked into my office 25 years ago,” he observes. “Yet every day I seek to honor his legacy through our life and through our work.”





BDOU's Next Generation of Leaders

Vanessa Oslund and Chandler Udo know the value of hard work and individual initiative.

Vanessa grew up in industrial Michigan in the 1980s and watched as the family wage union jobs that had sustained her community for decades steadily disappeared. Her parents struggled to make ends meet and send their daughters to college. Vanessa worked her way through college, graduating with honors from DePaul University in 2000. She moved to Washington State and worked as an insurance adjuster for several years to save money for law school. Vanessa attended Seattle University Law School while continuing to work and was elected Editor of the Law Review and graduated *summa cum laude* in 2006.

Chandler Udo was born in Bellingham, Washington and spent most of his childhood in nearby Ferndale, Washington. He grew up in a family of six with two brothers and one sister. Chandler played baseball, football, golf, and basketball. At Ferndale High School, he was a captain of both the football and basketball teams and was honored as outstanding male athlete his senior year at Ferndale High. His background in sports taught him the values of hard work and teamwork.

Chandler attended Western Washington University where he majored in Political Science. He was able to put himself through college with merit scholarships and by working during the summers and on weekends. After graduating from college, Chandler worked as a sushi chef and construction worker while saving for law school. He received a scholarship to Boston College Law School, where he served as Note Editor of the International and Comparative Law Review before



Chandler Udo

graduating *cum laude* in 2008.

After law school, Vanessa worked as staff attorney for the Washington State Legislature before joining BDOU in 2009. As a young lawyer, she deployed her tireless work ethic, legal sophistication, and can-do spirit to the vigorous representation of asbestos victims and their families. In her first two years of private practice, Vanessa served on several trial teams, she wrote and argued dispositive motions, and took both expert and corporate depositions. Her first trial victory was a \$1.5 million verdict in a maritime case involving an 83-year-old mesothelioma victim with only 67 days of shipboard exposure. Since becoming a partner in 2015, Vanessa has served as first chair in numerous trials and recently won a \$4.2 million verdict in a trial involving an 81-year-old mesothelioma victim. She is a national leader in asbestos litigation and a frequent speaker at legal education seminars. As BDOU expands its practice in other areas of litigation, Vanessa will continue to deploy her creative legal advocacy, tireless case workup, and proven success in the courtroom to set new records in legal accomplishment.

After graduating from law school Chandler worked as a law clerk for the Honorable Ellen J. Fair in Snohomish County Superior Court. He joined BDOU in 2011 and immediately distinguished himself as a courtroom lawyer. In his first five years of practice, Chandler tried 10 cases. One of his early victories was a \$4.2 million recovery for a 62-year-old mesothelioma victim who was exposed to asbestos at Bethlehem Steel in Seattle and had “take-home” exposure to asbestos from his father who worked at a shipyard. Chandler was the first lawyer in Washington State to win a premises liability case in an asbestos case. Other victories include a \$1.1 million verdict for an 89-year-old mesothelioma victim with exposure to asbestos through her husband who worked with asbestos flooring, and a \$1.1 million verdict for a 78-year-old mesothelioma victim who was exposed to asbestos at Washington shipyards. Chandler has led BDOU's expansion beyond asbestos litigation and recently won a \$750,000 verdict for a 32-year-old woman who was seriously injured when falling at the front entryway of her apartment building in Seattle.



Vanessa Oslund

When she is not working, Vanessa enjoys spending time with her husband and 7 and 5-year-old daughters, cooking, skiing, and spending time in the San Juan Islands.

Chandler enjoys spending time with his wife and eight-year-old twins, travelling, and following local sports teams.

and May, Vanessa met with the client and his wife outdoors, all of them masked, to prepare him for his deposition—sometimes under umbrellas, sometimes bundled up in blankets. BDOU also held many client meetings virtually through the Zoom platform. Chandler Udo worked with a client who lacked both the technology and know-how to meet on Zoom.

Undeterred, Chandler and our technology staff set the client up with an iPad and Wi-Fi service and taught him how to Zoom. We have provided this kind of service to dozens of our clients throughout the pandemic to ensure that they were able to stay connected.

Trials

One of the most daunting challenges during the pandemic for the legal system is conducting jury trials safely. For several months, no jury trials were held at all. However, working with a task force with other plaintiffs' lawyers, BDOU fought for their clients to have their day in court and hold corporate wrongdoers responsible. The result was that we were able to hold jury trials for several of our clients. Two trials were held at the Bellevue Meydenbauer Center: jurors were masked and seated six feet apart; the attorneys

and judge were masked throughout; witnesses testified through a face shield. Another trial was held through the Zoom platform. As lead counsel on that trial, Matt Bergman set up a mini-command center in BDOU's conference room to create a virtual courtroom that ensured a smooth presentation for the jury.

Office Operations

Office Operations have transitioned to make certain that settlement checks continued flowing to our clients. The attorneys and staff met three times a week virtually to keep connected. Some staff and attorneys found they were more productive at home; others yearned to return to the office. All BDOU personnel now been vaccinated, and we are all back in the office at least part time.

Observes Vanessa "Through the amazing dedication of our staff and lawyers we were able to continue providing first rate legal services to our clients throughout the COVID crisis. Nevertheless, it's wonderful to be back together as an office family and see our coworkers every morning when we walk through the door."

BDOUs Specialized Knowledge, from Page 1

company that supplied it to the shipyard. However, based on decades of experience representing mesothelioma victims exposed at Lockheed Shipyard, BDOU knew to sue Lone Star Industries whose predecessor, Pioneer Sand & Gravel, sold asbestos insulation in the Greater Seattle area from the 1940s through the 1970s.

BDOU Partner Vanessa Oslund, who tried the Everson case to verdict, explained: "we were the first law firm in the United States to discover that Pioneer Sand & Gravel was a major supplier of asbestos to the Seattle shipyards and spent years searching for evidence to hold them responsible for the innocent people they hurt." At trial, Lone Star argued that because Doug could not recall who supplied the asbestos cement he inhaled, his claim should be rejected. However, Vanessa relied on testimony from prior BDOU cases with eyewitnesses who observed Pioneer Sand & Gravel trucks delivering asbestos insulation to the USS Shreveport and USS Bagley at the time Doug worked on these ships. The jury found this evidence persuasive, determined that Lone Star had supplied an unreasonably dangerous product that caused Doug's mesothelioma and awarded \$4.2 million in damages.

Looking back on the trial, Vanessa explained "there is no

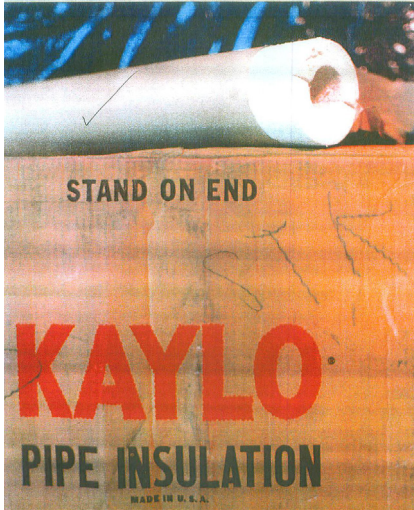
way we could have attained this marvelous result for Doug and Diane without the decades of effort we spent developing our evidence against Lone Star. It wasn't easy and we didn't win every battle, but ultimately our efforts came to fruition." Acknowledging the television ads from national law firms saturating the airwaves in search of mesothelioma clients, Vanessa observes that "the Everson case proves the advantage of working with a law firm with a longstanding presence in the Pacific Northwest, deep knowledge of local jobsites, and the demonstrated perseverance to play the long game and fight the good fight."



*Doug Everson aboard
USS Turner Joy*

Illinois' intentional decision to produce toxic asbestos products, mesothelioma victims and their families continue to suffer the consequences of its fateful decision.

In January 2020, Owens Illinois tried to evade responsibility for its misconduct by filing for bankruptcy in Delaware. At the time, BDOU client Ken Hagerman had been diagnosed with mesothelioma for eight months and was receiving chemotherapy. Ken had been exposed to Owens Illinois Kaylo through his father who worked shipyards in Seattle and brought toxic asbestos fibers home in his contaminated work clothes. Despite his fragile condition, Ken and his wife of 53 years Delores traveled with Matt Bergman to Delaware to seek appointment to the Owens Illinois Asbestos Creditors Committee. Ken was one of over a hundred applicants interviewed by the United States Trustee and, along with eight victims from other parts of the country, was appointed to represent the interests of all asbestos victims in moving the bankruptcy toward settlement.



"As Ken confronted his terminal mesothelioma, it gave him comfort to know that his service on the Committee would continue to benefit asbestos victims after he passed," she said. Ken lost his battle to mesothelioma in September 2020, but his service on the



Ken and Deloris Hagerman

Committee allowed Matt to work with other lawyers in negotiate a \$610 million settlement with Owens Illinois in April 2021.

The \$610 million settlement will be used to fund a trust to enable asbestos disease victims who were exposed to Owens Illinois Kaylo, either directly on the job or in their home environment through contaminated work clothes of an exposed worker. The trust will enable victims such as the Hagerman family to obtain financial compensation without the risk and expense of litigation, without impairing their ability to seek recovery in court against other defendants whose products contributed to their disease.

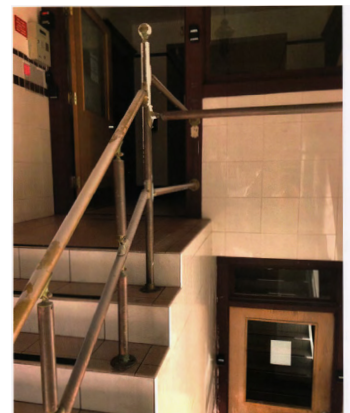
"Ken would have been proud to see this outstanding result," said Delores. "He was always looking out for other people and I'm grateful to Matt and the team of BDOU for giving us this opportunity to make a difference."

BDOU Expands Beyond Asbestos Litigation With \$750,000 Verdict in Slip and Fall Case

BDOU has expanded its litigation practice from solely representing mesothelioma victims to fighting on behalf of other victims injured by corporate misconduct. Twenty-five years of trench warfare in asbestos litigation has taught BDOU's lawyers how to work up cases with complex factual, medical, and legal issues, negotiate optimal settlements and present a compelling case at trial. In the past five years, BDOU has taken more complex personal injury cases to trial and prosecuted more appeals than any other law firm in Washington and Oregon. Because this expertise can be effectively applied to other types of complex litigation, BDOU is now prosecuting maritime and workplace injury cases, serious automobile accidents, and personal injury claims and toxic exposure

cases.

An example of BDOU's success beyond asbestos litigation is the \$750,000 jury verdict obtained on behalf of Diana Linde, who was severely injured when she fell through defective guardrail at her apartment building in Seattle. Diana had been celebrating at a local bar following a Seahawks playoff game and walked back home around 4:00 a.m. She



*Paramount Apartments
Entrance*

Continued on page 6

climbed the stairs to her entryway, used the callbox, and then leaned back against the guard rail. She bent forward and ultimately slid backwards through the gap, landing ten feet to the concrete below. Diana suffered a spine injury along with four rib fractures, a shoulder fracture, a skull fracture, and a moderate traumatic brain injury.

Over the course of two years of treatment, Diana made fantastic progress and was close to fully recovered at the time of trial. The guardrail at Diana's apartment had violated the building code since the 1960s and left a large gap through which children or vulnerable adults could fall. Nevertheless, the apartment owner argued that it should not be held responsible because Diana was intoxicated at the time of the accident. The jury rejected the defendant's argument that Diana was more than 51% at fault and ultimately found Paramount Apartments 65% at fault and Diana 35% at fault. Bergman Draper Oslund Udo trial attorneys Chandler Udo and Justin Olson successfully

argued that a guardrail needed to be safe, even for people who may be intoxicated, and that the guardrail at Dana's apartment was decades out of step with best minimum safety practices. Chandler, who has taken over 10 asbestos cases to trial explained "we were able to utilize our extensive trial experience in asbestos cases to secure the verdict." This victory is especially gratifying because Diana is a former longtime paralegal of Bergman Draper Oslund Udo.

BDOU Scores Victory in Washington Supreme Court Finding Pfizer Responsible for Quigley



Washington State Supreme Court

BDOU, recently took a mesothelioma case to the Washington State Supreme Court and won, defeating corporate giant Pfizer in the state's highest court. It represents a significant victory for Northwest mesothelioma victims.

In 1968, Pfizer purchased Quigley Company, a manufacturer of asbestos-containing cements that were used throughout industry. Pfizer immediately began placing its world-renowned logo next to the Quigley logo on asbestos product advertising and packaging. At a time when virtually all other asbestos manufacturers placed warnings to their products, the Pfizer-labeled asbestos products not only failed to include any warnings, but affirmatively promoted them as "non-injurious." Workers exposed to asbestos-containing Pfizer products were not only deprived of any warning but were given a false sense of security that because the product

was manufactured by a drug company it must be safe.

In an effort evade responsibility to asbestos victims injured from its products, Pfizer placed Quigley into bankruptcy in 2004. However, a federal court found a narrow exception that that Pfizer could face independent legal responsibility for Quigley products inscribed with the Pfizer logo where consumers reasonably understand Pfizer to be a manufacturer of those products.



BDOU client Vernon Rublee worked as a machinist at Puget Sound Naval Shipyard from 1966 to 2005 and was regularly exposed to asbestos on ships and submarines being repaired there. Mr. Rublee was diagnosed with mesothelioma in 2014 and he and his coworkers identified "Pfizer" as one of the asbestos products they worked around. BDOU named Pfizer, however, the trial court dismissed the case on the ground that the Quigley was solely responsible for Mr. Rublee's injury.

BDOU then appealed the dismissal of Mr. Rublee's case to the Washington Court of Appeals which affirmed, finding that his recollection of Pfizer asbestos "has little relevance to a reasonable purchaser's understanding of the product's manufacturer because Rublee has not shown that any of the workers had any role in any purchasing decision."

Undaunted, BDOU appealed to the Washington Supreme

Bergman Draper Oslund Udo Supports Swedish Thoracic Surgery Fellowship Partners in Patient Care



Matt Bergman knows the pain and anger that patients with mesothelioma feel. As a founding partner at Bergman Draper Oslund Udo, he's seen the toll the rare but deadly cancer can take on his clients and their families. He's watched his clients endure severe chest pain and struggle for breath. Most people can trace the root of their disease to asbestos exposure in their workplace or from contaminated work clothes brought home by a family member, and they come to Matt for help.

After more than 25 years of representing families affected by mesothelioma, Matt and his partners are ensuring that their clients — and other patients like them — can get the best treatment possible by supporting a fellowship through the Swedish Thoracic Surgery program.

Over the years, Matt's respect and admiration for his clients has only grown stronger. They fought in wars and built America's infrastructure of ships, skyscrapers, power plants and dams, all the while being exposed to asbestos without their knowledge. "My clients are people who have worked very hard for their whole lives to support their families and serve their country," says Matt. "The most rewarding thing is to know I've made a difference in their lives."

Patients with mesothelioma, a cancer that attacks the lining of the lungs and other organs, can endure a daunting combination of radiation, surgery and chemotherapy. But thanks to research, more people are living longer with the disease. Matt remembers one client who devoted the six and a half years he lived after his surgery to advocating for other mesothelioma patients before Congress. "He was an incredibly articulate and forceful advocate," says Matt, "who wanted to use his limited time to make a difference for other mesothelioma victims."

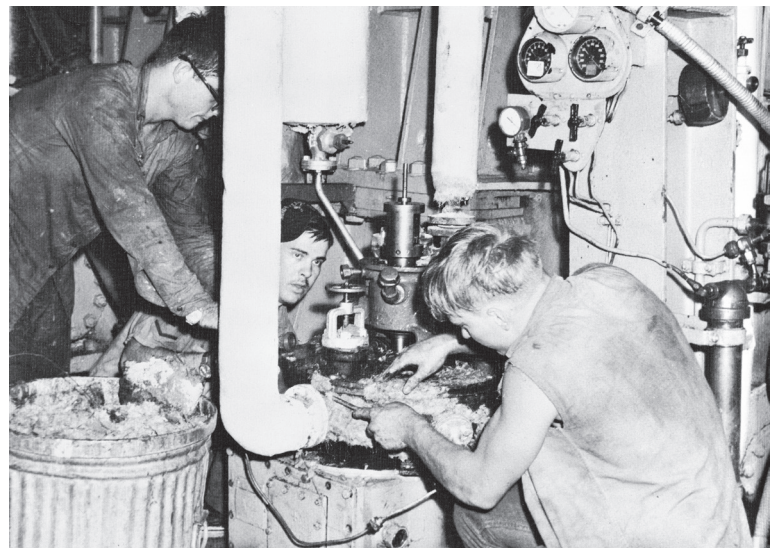
Through that client and many others, Matt came to know Eric Vallières, M.D., and his team of surgeons at Swedish Thoracic Surgery. "My clients tell me about the high level of care that they receive, not just in terms of the technical implementation of medicine, but also the level of personal

care and compassion," says Matt. When he heard about the fellowship program, Matt and his partners jumped at the opportunity to support leading-edge research and the development of the next generation of expert surgeons.

Most fellows who join the research program are finishing up general surgical training and aiming to move on to thoracic surgery training. Their year-long stint at Swedish provides dedicated time for research. "They get a chance to spend time delving into thoracic surgery and diseases of the esophagus and chest without any other clinical duties," says Brian Louie, M.D., the director of thoracic research. While preparing for the next steps in their career, fellows are also driving new developments in the field. "Research advances practice. It may change the way we do things or provide information about clinical problems that other surgeons encounter," says Dr. Louie.

After each physician completes their training, they take all they've learned as Bergman Draper Oslund Udo research fellows wherever they settle. "Our hope is that the physicians we're training will be the leaders in thoracic surgery around the country," says Dr. Louie. "We're grateful for the firm's support."

For Matt and his firm, their gift is another way they can continue to take care of their clients. While doctors and lawyers working together might sound like the wind up to a punchline, Matt is proud of this partnership. "I think this is an example where physicians and lawyers can work together very effectively in the service of people who need help."





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BDOU Scores Victory from Page 6

Court which accepted review and reversed the Court of Appeals. The Supreme Court agreed with Matt Bergman's argument that Mr. Rublee as a "reasonable consumer" believed that Pfizer was the manufacturer of the asbestos containing products that caused his mesothelioma death. The Supreme Court also rejected Pfizer's claim that the plaintiff must prove a "sophisticated purchaser" such as the Puget Sound Naval Shipyard must have relied on Pfizer's representations and, instead, concluded that the issue must be viewed from the perspective of an ordinary consumer.

This case is especially important for asbestos victims because Quigley filed for bankruptcy, which left its victims without recourse in the Court system. Now, as a result of BDOU's appellate advocacy, asbestos victims can pursue compensation claims against Pfizer as the apparent

manufacturer of Quigley products. Rublee is also not only an example of BDOU's creative legal advocacy, but its dogged determination to fight all the way to the Supreme Court after successive defeats in the lower courts. As Matt observes "although Vern Rublee did not live to see his victory in the Supreme Court, his name will be enshrined in lawbooks for generations as a testament to workers' rights and inspiration to never give up."



Rublee Family Christmas 2015