



Newsletter Summer Fall 2023



King County Jury Awards \$5.75 Million Against Volkswagen Group of America and Volkswagen AG for the Mesothelioma Death of BOUL Client

On December 21, 2022, a King County jury in Kent, Washington, found Volkswagen Group of America and Volkswagen AG liable for the mesothelioma death of an auto mechanic from Spokane, Washington. Thomas Sorrentino was exposed to asbestos while working at United Volkswagen, leading to his mesothelioma diagnosis in 2020 and subsequent death in 2021. The jury awarded \$5.75 million in damages, with \$5 million going to Mr. Sorrentino's estate and \$750,000 to his son.

During his employment from 1972 to 1975, Mr. Sorrentino replaced brakes and clutches on Volkswagen vehicles, which exposed him to asbestos-containing friction material. Volkswagen failed to provide warnings about asbestos on their replacement brakes, despite testing for it at their German factories. The grinding process used by Mr. Sorrentino released asbestos dust, and using an air compressor to blow off the dust further exposed him to harmful asbestos.

The verdict held Volkswagen accountable under product liability law and highlights their negligence in failing to protect workers from asbestos exposure. Though it can't fully compensate Mr. Sorrentino's suffering, the jury's decision sends a strong message about the consequences of such negligence.



BDOU Changes Name to Bergman Oslund Udo Little, Welcomes Brendan Little as Named Partner

Bergman Draper Oslund Udo has undergone a name change and is now known as Bergman Oslund Udo Little (BOUL). This change comes after Brendan Little, who became a partner at the firm in 2022, was added as a named partner, recognizing his significant contributions to the firm's success. Brendan has over ten years of experience in mesothelioma and asbestos litigation and has played a crucial role in several high-profile cases, securing substantial verdicts.

Working alongside partners Vanessa Firnhaber Oslund and Chandler Udo, Brendan aims to continue the firm's mission of fighting for the rights of those affected by asbestos-related diseases and corporate misconduct. He brings a wealth of experience from various case types and courts across the country, which will

contribute to the firm's strategic approach.

Additionally, Glenn Draper, a long-time partner, will remain with the firm, serving as Of Counsel and advisor, advocating for asbestos victims. Glenn's expertise has been instrumental in the firm's growth and success, and his continued involvement will be invaluable to the firm's clients.

BOUL takes a comprehensive approach, encompassing education, service, advocacy, and litigation to provide full support to their clients. While their primary focus is on individuals in Washington and Oregon, they are actively involved in courts throughout the region, achieving significant financial recoveries for their clients during challenging times.

BOUL Settles Premises Claim Against the Port of Seattle for Dorothy Greenway-Payne's Asbestos Exposures at SeaTac Airport

On March 20, 2023, the eve of trial, BOUL settled the mesothelioma case of Dorothy Greenway-Payne against the Port of Seattle. Ms. Greenway-Payne, who lived in Pennsylvania, originally hired an East Coast law firm to represent her. However, because Ms. Greenway-Payne's exposures to asbestos occurred decades earlier while she worked for Alaska Airlines at SeaTac Airport, that East Coast law firm did not have the capability to prosecute the case. So, they reached out to the experts on Washington asbestos law and jobsites, Bergman Oslund Udo Little, to handle the case. BOUL had already represented multiple other clients exposed to asbestos in the precise areas of the airport where Ms. Greenway-Payne worked. "Because of our prior cases at SeaTac Airport, we already knew the sources of asbestos at the airport, potential witnesses, and already had many of the relevant

documents needed to successfully sue the defendant," explained Vanessa Firnhaber Oslund, who partnered with Brendan Little to prosecute the lawsuit.

After Ms. Greenway Payne passed away from her mesothelioma, the case was continued by her family on behalf of her son, who brought claims for survivorship and wrongful death due to Ms. Greenway-Payne's terminal mesothelioma. Ms. Greenway-Payne was exposed to dangerous levels of asbestos while working in the Alaska Airlines bagwell area at SeaTac Airport during the 1980s and '90s. The Port of Seattle, as the premises owner, breached duties under the business invitee theory of negligence and its statutory duties to provide a safe workplace. The plaintiff claimed that the asbestos

exposure in the bagwell area significantly contributed to Ms. Greenway-Payne's mesothelioma.

The evidence focused on asbestos-containing materials used during the airport's construction and expansion in the 1960s and '70s. A particular concern was the Monokote fireproofing, supplied by W.R. Grace, which contained chrysotile asbestos and contaminated vermiculite from the Libby mine in Montana. The Port had previously acknowledged the hazards of Monokote fireproofing and even filed a multi-million dollar claim for asbestos-related harm caused by W.R. Grace products.

Dorothy Greenway-Payne, fondly known as Dottie, worked as a store's agent for Alaska Airlines at SeaTac Airport from 1985 to 2007. Her job involved handling the airline's materials for aircraft, which often required her to visit the Alaska Airlines bagwell area and the tarmac to search for materials. Her co-worker, Melodee Nixon, testified that Dottie frequently worked as the "runner," going in and out of the bagwell in the 1980s. Gordon Nixon, Dottie's

supervisor, confirmed that stores agents visited the bagwell regularly, sometimes daily.

The evidence showed that in 1985 the Port conducted a survey identifying sprayed-on asbestos-containing fireproofing throughout the bagwell area, which was friable and damaged due to intense physical activity. The Port testified at deposition that it had not removed all asbestos from the bagwell area of the airport until the early 2000s, almost thirty years after the U.S. Environmental Protection Agency initially banned the application of spray fireproofing that contained asbestos. Internal documents raised concerns with asbestos hazards at the airport through the 1980s, yet these concerns were not adequately communicated to workers or passengers at the airport. BOUL attorney Brendan Little noted that, "as we see all too often, the entity with the responsibility for keeping workers safe – here, the Port of Seattle – cut corners and ultimately violated the law by failing to warn Ms. Greenway-Payne of the likelihood of asbestos exposure in the areas she did her work."





Bergman Oslund Udo Little Relocates to New Office

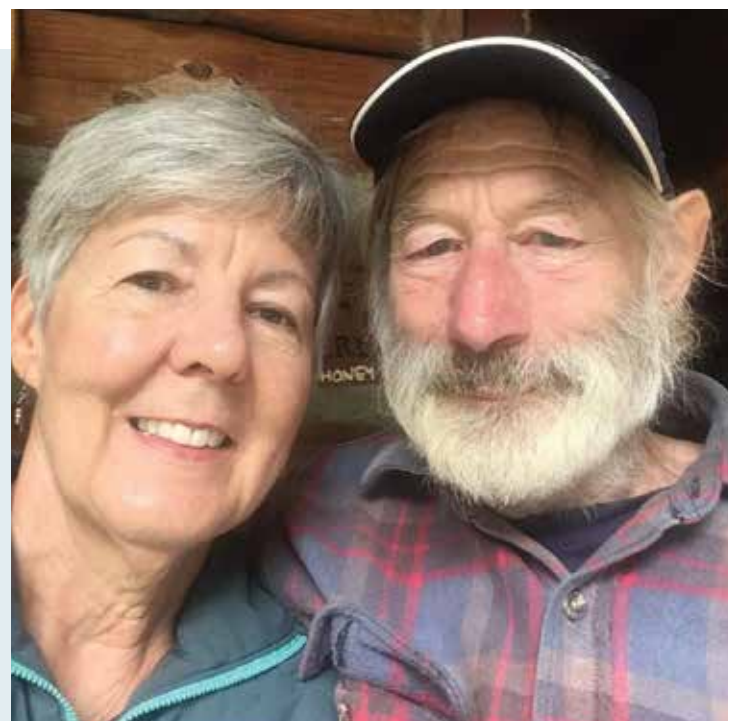
On May 1, 2023, Bergman Oslund Udo Little, a Seattle-based law firm, celebrated its successful relocation to a new office at 520 Pike Street in downtown Seattle. The move represents a significant milestone for BOUL as they continue their unwavering commitment to providing exceptional legal services to clients affected by asbestos-related diseases and corporate misconduct. With this relocation, the firm enters a new chapter in their mission to fight for the rights of individuals in Washington and Oregon impacted by mesothelioma and asbestos exposure.

The new office offers enhanced resources and facilities, bolstering BOUL's comprehensive approach, which includes education, service, advocacy, and litigation. As they settle into their new space, BOUL remains steadfast in their dedication to seeking justice and securing substantial verdicts for their clients in their battle against preventable diseases caused by asbestos exposure.

Bergman Oslund Udo Little Achieves Appellate Victory in Landmark Asbestos Case involving Asbestos Contractors

On July 5, 2023 – Bergman Oslund Udo Little achieved a significant appellate victory that has far-reaching implications for mesothelioma victims in Washington. The firm successfully secured a favorable decision from the Court of Appeals of the State of Washington (Division I – Seattle), allowing asbestos claims against contractors to proceed even after more than a decade of exposure.

In an important ruling for asbestos victims, Division I overturned the summary judgment dismissal of the Welch family's lawsuit against Brand Insulations, Inc., and Haskell Corporation. In so doing, the Court broke ranks with its sister court, Division II – Tacoma. The primary issue was the statute of repose. The statute of repose is a law requiring that claims against building contractors be brought within seven years of the construction being complete even if, as with



mesothelioma claims, the plaintiff does not realize they have been injured until more than seven years have passed. While Division II of the Washington Court of Appeals previously ruled that this law prevented asbestos Plaintiffs from recovering from building contractors who installed asbestos insulation, BOUL believed that decision was wrong and asked Division I to reject this reasoning.

BOUL attorney Justin Olson played a pivotal role arguing the case to the high court. He argued that the analysis adopted by Division II was fundamentally flawed. Olson emphasized the application of Washington's statute of repose test as established by the Washington Supreme Court (*Condit v. Lewis Refrigeration Co.*). The Division I Court agreed, ruling that the Defendants failed to provide sufficient evidence demonstrating that the application of asbestos insulation contributed to the refinery's structural improvements or integral systems. As a result, Division I revived the Welch

family's claims and sent the case back to the trial court level for further proceedings. The Welch decision creates a division split with the Court of Appeals of the State of Washington (Division II), which previously ruled in 2020 that similar asbestos claims were untimely.

Justin Olson expressed satisfaction with the outcome, stating: "This decision underscores the complexity faced by mesothelioma victims in Washington and highlights the significance of engaging a law firm well-versed in Washington law." The victory enables the Welches to proceed with their claims against Brand Insulations Inc. and Haskell Corporation in Superior Court, offering hope and justice to victims of asbestos exposure.

The Division I appellate win reflects BOUL's dedication to upholding victims' rights and achieving legal milestones that impact both individuals and the broader legal landscape.

Bergman Oslund Udo Little Achieves \$13 Million Verdict Against Surgeon for Botched Cosmetic Surgeries and Permanent Disfigurement

On August 4, 2023, Bergman Oslund Udo Little secured a \$13 million verdict against Kristine Brecht, M.D., and Aesthetic Rejuvenation & Spa. The verdict was obtained on behalf of a former patient and her husband. Dr. Brecht, whose medical license was suspended by the Washington Medical Commission, performed a series of cosmetic surgeries that left the patient permanently and terribly disfigured due to a lack of proper credentials, training, and skills.

In a lawsuit filed on July 11, 2022, in the Superior Court of Washington, the patient alleged that Dr. Brecht and Aesthetic Rejuvenation & Spa conducted a two-day surgical procedure without the necessary qualifications, skills, or adequate disclosure of risks. Notably, Dr. Brecht utilized "Cinderella Anesthesia," an unsafe makeshift alternative to general anesthesia created using a combination of prescription drugs taken orally. This dangerous approach resulted in memory loss and involved restraining patients during surgery with handcuffs and weights.

Despite advertising herself as a board-certified plastic surgeon, Dr. Brecht lacked eligibility for board certification in any surgical specialty. The absence of any endorsement for the use of "Cinderella Anesthesia" by other physicians raised significant concerns about patient safety. Ruby Aliment, lead counsel for the plaintiffs and an attorney with BOUL, highlighted the challenges patients face in verifying the competency of medical professionals due to self-regulation within the medical profession.

The jury's verdict comprised \$5 million for past damages, \$6 million for future losses, \$2 million for the husband's loss of consortium, and \$34,186 for the plaintiffs' consumer fraud claim. The total award amounted to \$13,034,186.

Vanessa Firnhaber Oslund, who tried the case alongside Ms. Aliment, said this verdict serves as a strong warning to doctors who prioritize personal gain over patient safety. Oslund emphasized the necessity of transparency and meticulous care in cosmetic surgery to safeguard patient interests.

Dr. Brecht's surgical mismanagement included performing a range of procedures on a poorly controlled diabetic patient over two days. The surgeries led to complications exacerbated by the doctor's failure to adequately address the patient's medical condition and follow proper post-operative care. Dr. Brecht's reassurances about the surgeries' success were contradicted by the patient's worsening condition, prompting her to take legal action.

The case underscores the critical need for stringent oversight and accountability within the medical field, ensuring patients' safety remains paramount in all medical procedures.



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