

# Press Releases

## O'Melveny Wins Acquittal for Wolter in W.R. Grace Criminal Case

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**MISSOULA, MONTANA** — O'Melveny & Myers LLP scored a significant victory for client Jack Wolter in the largest-ever federal criminal prosecution of alleged violations of the Clean Air Act when a federal court jury acquitted Wolter, W.R. Grace, and two other former Grace executives of conspiracy to obstruct the Environmental Protection Agency (EPA) and to endanger the community of Libby, Montana.

The closely watched, four-year-long case, *United States v. W.R. Grace, Eschenbach, Wolter, et.al*, has been described by environmental law authorities as one of the biggest environmental crimes trial in history, as well as the most significant criminal prosecution the federal government has ever filed against an alleged corporate polluter.

O'Melveny partner Carolyn Kubota, lead defense counsel for Wolter, said the sweeping acquittal after just one day of deliberations vindicates Wolter, who served as the vice president of Grace's Construction Products Division from 1975 to 1994. "Mr. Wolter is

gratified by the jury's verdict," Kubota said. "It puts to rest any questions about the alleged criminal conduct in connection with the mining activity in Libby, Montana. We recognize the great tragedy that this community has suffered, but the record shows that Jack Wolter did everything in his power to create a safe working environment in Libby."

Said Wolter: "I want to thank the jury for being so conscientious in considering all of the evidence in the case and exonerating me."

Throughout the case Kubota maintained that Wolter was innocent of all charges. She and the O'Melveny team presented overwhelming and compelling evidence that Wolter: (i) did not knowingly endanger the community; (ii) steadfastly worked to ensure that conditions in Libby were safe; and (iii) did not conspire to defraud the EPA. In her closing argument to the jury, Kubota said the government's claims about Wolter's alleged conduct were unsupported by the evidence. Kubota told jurors: "For the government to come into this courtroom and claim that this evidence rises to the level of proof beyond a reasonable doubt is shameful." She also reminded the jurors that they had the power to prevent a miscarriage of justice. "In asking you to acquit Jack Wolter, we are asking you to do what people at the highest levels of the Justice Department, the EPA, and the US Attorney's Office lacked the courage to do in order to stop this unjust prosecution. You are the backstop."

The case began in 2005 when a federal grand jury handed down an unprecedented indictment, alleging a 30-year conspiracy to defraud the government and violate the criminal provisions of the Clean Air Act (CAA), substantive CAA violations, and obstruction of justice. Grace, which bought the mine in 1963 and closed it in 1990, was indicted along with Wolter, Henry A. Eschenbach, Robert J. Bettacchi, Robert C. Walsh, and William J. McCaig on charges that they knowingly released a hazardous air pollutant, then conspired to conceal their involvement or obstruct the government's investigations.

Kubota, a partner in O'Melveny's White Collar Defense and Corporate Investigations Practice Group, led a Los Angeles-based team from the Firm that included fellow White Collar Defense partner Jeremy Maltby, as well as Robert Swerdlow, a counsel in the Class Actions, Mass Torts, and Aggregated Litigation Practice Group, associates Justin Ford and Lisa Chen of the White Collar Defense Group, and professional paralegal James McCarthy.

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