

Bennington battles it out in landmark environmental case

BY TIFFANY BECK | CONTRIBUTING WRITER

Known for being tough and persuasive, Orlando attorney Bud Bennington's resume is stuffed with interesting experiences.

They range from his legal work on the gaming industry in Atlantic City, N.J., to running for the U.S. Congress as a Republican candidate in New Jersey, as well as his frequent appearances as a legal analyst on shows such as CNN's *Larry King Live*.

Today, he's chairman of the business litigation practice group for Shutts & Bowen LLP (www.shutts.com), where he's worked since 2002.

His most significant case of late has him defending Crescent Resources LLC in suits involving 154 acres of undeveloped property next to the former Siemens Communications Inc. manufacturing plant in Lake Mary.

Crescent, which bought the land in 2000, is being sued by several people who allege they were injured by a chemical used in the production of circuit boards while working at Siemens between 1989 and 2003. What makes the case significant is Crescent didn't own the property when the plaintiffs were injured, nor was it responsible for the pollution.

Bennington talked to *OBJ* about the case, as well as the growing importance of environmental litigation.

OBJ: What law are the suits based on?
Bennington: Florida statute 376.313 (3)



PHOTO BY JIM CARCHIDI

Attorney Bud Bennington with files from the Crescent Resources case

says if you bought land and it's contaminated, you must clean it up, regardless of whether you caused it or not. The Legislature created a situation to encourage the development of contaminated land sites, with the expectation that at least someone would clean it up. Otherwise the land would sit there unused or forever contaminated because people wouldn't buy it until it was cleaned. We maintain that the statute does not contemplate liability

for personal injury or wrongful death.

OBJ: How can Crescent be sued for personal injury if it didn't cause harm?

Bennington: We don't think it should be. At the time most of these people were injured, Crescent didn't own the allegedly contaminated property. Further, Crescent wasn't responsible for the contamination. Crescent was merely the owner of property adjacent to the Siemens plant where the plaintiffs worked. In fact, Crescent has not developed the property. Crescent had nothing to do with causing the problem to begin with.

OBJ: What are the possible business ramifications if the court rules in favor of the plaintiffs?

Bennington: No good lawyer would allow his client to buy contaminated land, because you can't quantify the damages. It's going to create a situation where nobody's going to want to develop contaminated land for fear that people who were injured in the past are going to come out of the woodwork to claim personal injury. The negative impact on land development in Florida would be profound.

OBJ: What's your biggest challenge?

Bennington: It will be extremely challenging to continuously have the jury focus on who should be responsible for those claims in view of the tragic stories told by some of the former Siemens employees suffering from a variety of ailments, including cancer.

Bud Bennington

Title: Chairman of the business litigation practice group, Shutts & Bowen LLP

Age: 54

Education: Bachelor's degree, Marietta College; law degree, Ohio Northern University

Previous jobs: Greenberg Traurig P.A.

Family: Wife, Donna; children: Justin, age 12, Olivia, 10

Motto: "Be prepared."

OBJ: What do you expect to happen with this case?

Bennington: I would expect more cases filed in the months ahead. The discovery will continue to be extensive and ongoing for more than a few years. We expect this case eventually may go to the Florida Supreme Court, because it's that big a deal. This is one of the most consequential cases I've ever had.

OBJ: Why do you enjoy this job?

Bennington: Business litigation runs the gamut, and the things we see are pretty bizarre. Most times, you are required to learn as much as you can in a short period of time. In the last few months alone, I've continued to learn more about the long-term effects of chemicals in the ground, the citrus industry's ups and downs and the nesting habits of eagles and their offspring. Every day is different and each case is unique.



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