

CASE REVIEW

[R. Gordon Marvin, Personal Representative of the Estate of Sharon Marvin, Plaintiff, vs. Champion International Corporation; and Don Whitaker Logging & Hauling, Inc., Defendants. Douglas County Circuit Court Consolidated Circuit Court Actions 97-CV-0326-CC.](#)

In 1987, Champion International Corporation (CIC) hired Don Whitaker Logging to clear-cut all the timber from land CIC owned on some steep rocky slopes above Hubbard Creek in Oregon's coast range mountains. Homes and a public highway were in the valley below the planned clear-cut. The Oregon Department of Forestry warned CIC and Whitaker that the area was high risk for landslides, and that a landslide starting high on the denuded slopes would likely reach homes and highway below. But ODF had no power to stop the clear-cut.

On November 18, 1996, following heavy rain, a landslide began high on those clear-cut slopes. It tormented down, gathering logging debris, mud, and rocks, and killed four people and totally destroyed one home. It orphaned two children and left two others without a mother.

Art was retained to prosecute the wrongful death claims. The scene was examined from the ground and from the air. Art then found as the lead expert, the world's most respected geomorphologist, at the University of California in Berkley. He traveled to the site and recommended extensive tests to determine exactly the causes of the landslide and recommended utilization of graduate students to do the testing. Week after week, they tested roots of the stumps and other vegetation left on the hillside after the clear cut to show how those roots, now 8 years old, which had held the soil when the trees remained on the slope, had lost their strength in the years following the cutting. The team compiled the scientific literature and the relationship between forest practices and landslides. Many studies confirmed that denuding forest slopes increased the rate of landslides. The extensive tests done on site also confirmed that on such steep, rocky mountainsides with thin soil, the removal of old growth trees created a grave risk of a landslide within 10 years.

The team conducted extensive discovery and obtained over tens of thousands of documents from various sources including Defendant CIC, the Oregon Department of Forestry, federal government agencies, scientific journals, and the Internet. The team indexed and summarized each of those documents using a computerized database.

The team took more than thirty depositions in Oregon, Washington, and Canada, and interviewed other witnesses. The depositions and documents established that defendants did know that such a clear-cut would create a high risk of landslide, and knew that in removing the trees from that steep forested slope, would substantially increase the risk of tragedy.

Art and the team prepared a compelling video telling the dramatic story of the Hubbard Creek Valley, its former beauty, the home sites, the devastation wrought by defendants, and the resulting tragedies of lost lives and families damaged forever. After two days of mediation,

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followed by weeks of further negotiations, the claim against CIC was settled, but on terms that are confidential.

[Note: On the same day of the Hubbard Creek landslide, other landslides occurred, including one on the steep slopes above the Umpqua River. That Umpqua River landslide killed one woman and seriously injured a log truck driver. Art and his firm successfully prosecuted the claims for her death and for his injuries.]