



## Mass Tort & Product Liability

### Overview

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Our skilled and knowledgeable Mass Tort & Product Liability attorneys represent a variety of companies in tens of thousands of cases filed in state and federal courts throughout the United States. Our deep and experienced team of trial lawyers focuses on the national, regional, and local defense of cases involving asbestos, silica, coal mine dust, benzene, welding fume/manganese, talc, vinyl chloride, lead, formaldehyde, mold, and other claimed toxins. We also handle pharmaceutical/medical device claims and represent manufacturers of industrial and construction machinery, consumer products, and chemicals, among others. In 2020, legal analytics firm Lex Machina rated Tucker Ellis third in the number of non-MDL product liability cases handled for defendants between 2015 and 2019. Many of our clients also ask us to coordinate the national defense of these and other mass tort and product liability cases for companies ranging from Fortune 100 corporations to family-owned businesses.

Our trial lawyers have been admitted in virtually every jurisdiction in the United States and have tried numerous cases to jury verdict in dozens of states. Through this experience, our team has garnered a wealth of information and wisdom and has developed skills and capabilities which we apply proficiently to all of our matters. We maintain an extensive electronic database of pleadings, documents, depositions, and expert information across offices. These resources allow our teams to efficiently, effectively, and simultaneously manage thousands of cases in multiple jurisdictions.

Our practice is ranked in *The Legal 500 United States* (Product Liability, Mass Tort and Class Action – Defense: Toxic Tort), *U.S. News – Best Lawyers®* “Best Law Firms” (National Tier 1 in Mass Tort Litigation/Class Action – Defendants), and at the Nationwide level in *Chambers USA* (Product Liability & Mass Torts: The Elite). Clients praise our “very strong” team for our understanding of client needs and preferences, responsiveness, and business acumen. “They provide diverse and exceptional teams” and “think strategically, are excellent communicators and consistently deliver results aligned with business strategy.”

### COORDINATING THE DEFENSE

We assist our clients in all aspects of coordinating the defense of repetitive, national litigation and develop and implement strategies to meet our clients’ individual goals and directives. This work includes the identification and development of defense experts, preparation of corporate witnesses for deposition, and the consistent coordination of discovery – no matter

how many jurisdictions or discovery requests – and we create and implement protocols and procedures to ensure the success of these frequently imposing tasks.

## **PARTNERING WITH OUR CLIENTS AND OUR LOCAL COUNSEL NETWORK**

We believe that truly partnering with our clients is essential to achieving their goals. As an example, the Tucker Ellis internet-based matter management system allows for prompt tracking and retrieval of information along with accurate reporting and case assessment. We also enjoy a longstanding relationship with a large network of top-quality local counsel throughout the country. We efficiently partner with our clients, local counsel, and the proper team of experts to provide a consistent and effective defense while saving time and money – allowing us to obtain great results and meet client goals.

## **FEE SPLITTING AND ALTERNATIVE FEE ARRANGEMENTS**

The Tucker Ellis Mass Tort & Product Liability team is often asked to represent several clients in a particular matter or series of matters. On such occasions, fees and expenses are divided equally among our clients, providing a significant cost savings to all involved. The benefit of our experience – at a fraction of the cost – provides exceptional value.

We also work with our clients to design and implement alternative fee arrangements (AFAs) based on valuation other than the billable hour. We take pride in the fact that approximately 40 percent of our engagements take advantage of these AFAs.

## **AREAS OF EMPHASIS**

- Preparing and trying cases to verdict
- Obtaining dismissals or favorable settlements
- Developing, briefing, and arguing strategic motions
- Conducting due diligence for corporate acquisitions to evaluate and determine risk levels for asbestos litigation portfolios
- Orchestrating document sweeps and maintaining document repositories
- Developing and preparing company representative witnesses
- Creating “Best in Class” teams of medical, scientific, and other expert witnesses
- Counseling on insurance coverage and corporate structuring in light of product liability considerations
- Counseling on protecting product patents and trademarks
- Counseling on the introduction and sale of products to the public, including advice on advertising literature, operating manuals, and product warnings
- Representing clients in product recalls and hearings before state and federal agencies

- Selecting and working with technical experts and coordinating scientific studies for the defense of product liability actions on a national basis
- Coordinating and implementing risk management systems for product manufacturers to coordinate both litigation and multi-district discovery on a national basis
- Assisting in product-related legislative initiatives on a national and state basis

#### **EMERGING TRENDS IN MASS TORT & PRODUCT LIABILITY LITIGATION**

- [Antimony Trioxide Litigation](#)
- [E-Cigarette Litigation](#)
- [Formaldehyde Litigation](#)
- [Glyphosate Litigation](#)
- [Methylene Chloride Litigation](#)
- [Nanotechnology Litigation](#)
- [Ortho-Toluidine Litigation](#)
- [Polyfluoroalkyl Substances \(PFAS\) Litigation](#)
- [Styrene Litigation](#)
- [Trichloroethylene Litigation](#)

#### **Experience**

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- National coordinating counsel for manufacturers, suppliers, and services companies in nationwide mass/toxic exposure cases and product liability litigation; lead and support trial teams; train, review, and manage outside counsel across the country; coordinate written and expert witness discovery; and prepare and produce corporate witnesses
- Panel counsel for insurance companies in defense of their insureds in mass/toxic exposure personal injury litigation; Ohio counsel and national counsel in the defense of thousands of cases, working with clients, witnesses, experts, and counsel on strategy, motion practice, and discovery; lead or assist at trial; and formulate and lead the execution of national and individual case strategies
- Successfully leading the briefing on dispositive motions, including motions for summary judgment on successor liability, for numerous clients based on a variety of underlying fact patterns and state laws
- Excluding expert testimony through deposition and motion practice, as well as oral argument, based on lack of scientific validity and reliability under both federal (*Daubert*) and state (*Frye*) standards