Mass & Toxic Torts

Increased focus on environmental and health hazards associated with the production, handling, and disposal of hazardous materials has led to a sharp increase in mass personal injury and property damage litigation by individuals alleging harmful consequences from potential exposure to substances such as asbestos, toxic fumes or waste, byproducts of manufacturing, and household products such as lawn chemicals or prescription medication.

Our mass and toxic torts attorneys handle thousands of cases in state and federal courts involving exposure to a variety of allegedly toxic substances such as asbestos, lead paint, silica, TCE, and benzene. In addition, we defend companies and governmental agencies against allegations of injury due to hazardous waste sites. Our clients have the benefit of a large litigation support team comprised of well-trained paralegals and legal assistants experienced with these types of claims.

In addition to toxic exposures, our team routinely counsels clients on a wide array of product-recall issues. Our attorneys have successfully worked with an international manufacturer of security devices, an international manufacturer of electrical products, and several food manufacturers and distributors on product recalls and withdrawals. From the initial investigation and evaluation to the development of an effective internal and external communication plan to giving full and appropriate notice to actual and potential customers, our cross-disciplinary team addresses all aspects of a recall with the goal of a successful defense should a products liability case be brought and litigated.

Our team has extensive experience representing defendants who find themselves involved in multi-plaintiff torts arising out of a wide variety of circumstances. Our attorneys have been handling mass tort cases for over 35 years and provide clients with the experience and counsel needed to get results.

Specific examples of our attorneys' experience include:

- Represented a local municipality in connection with the disposal of chemicals at a landfill by various companies with alleged personal injuries and diminution of property value.
- Represented companies and individual land owners in connection with the defense of claims of property damage and personal injury arising out of oils spills and seepage.
- Defended a propane distributor through discovery and trial preparation in matters arising from an explosion that resulted in multiple deaths, injuries, and property damage.
- Represented a government authority in multiple mass torts, including alleged personal injuries and property damage arising from hazardous waste sites and improper operations resulting in flooding and property damage.
- Defended a nursing agency for alleged actions out of a multiple-fatality fire.
- Successfully counseled an international manufacturer of security devices, an international manufacturer of electrical products, and several food manufacturers and distributors on product recalls and withdrawals.
- Represented a defendant with multiple lawsuits in state and federal court following the crash of Colgan Flight 3407.
- Represented a company that used beryllium in its manufacturing process in claimed exposure matters.
- Represented site owners, governmental entities, and alleged material disposers in claimed toxic-exposure cases.
- Represented plaintiffs in a variety of matters arising out of alleged exposure to toxic chemicals and waste, including over 600 plaintiffs in the first wave of litigation in the early 1980s from the disposal of chemicals at the Love Canal.

- Obtained summary judgment on behalf of a property owner to dismiss a claim of toxic-lead exposure based on lack of notice and successfully defended the subsequent appeal by the plaintiff to the NYS Appellate Division and Court of Appeals.
- Represented an international renewable-energy company in mass-tort action brought by plaintiffs for alleged nuisance, property damages, and personal injuries from exposure to wind turbine noise.
- Represented an orthopedic surgeon in MDL 1014, the pedicle screw litigation, including arguing before the JPML that the cases pending with our client should not be incorporated into the MDL.

Representative Experience

- Defended a major gasket manufacturer against claims brought by a plaintiff suffering from mesothelioma allegedly caused by asbestos exposure. At the conclusion of the four-week trial in New York State, only 2 percent of the total verdict was apportioned to the client. Ninety-seven percent of the $8 million verdict was allocated by the jury to six out of 27 other non-trial defendants who had settled or not been sued.
- Represented a manufacturer in a personal injury action involving allegations of asbestos exposure that resulted in a summary judgment dismissal of the action with prejudice. After the client made a *prima facie* showing of entitlement to summary judgment, the plaintiff failed to produce any proof that he came into contact with any asbestos-containing components on the only engine manufactured by client that he recalled seeing and that he was present while others worked on the alleged asbestos-containing components of the aforementioned engine.
- Represented an automotive parts supplier in a personal injury action involving allegations of asbestos exposure that resulted in summary judgment dismissal of the action with prejudice as well as a denial of the plaintiff's post-dismissal motion to renew. After the client made a *prima facie* showing of entitlement to summary judgment, the plaintiff failed to produce any competent admissible evidence that he was exposed to asbestos fibers at a certain time and location from brake products purchased from the client.
- Successfully tried and obtained a "no cause" verdict in a products liability case in Monroe County Supreme Court. The plaintiff alleged he sustained permanent injuries as the result of an apartment fire that started when a manufacturing defect caused his refrigerator to short circuit. After a trial in which both sides presented expert witness testimony regarding causation, the jury determined the refrigerator was free from any defects, and the plaintiff's own negligent act of burning combustible materials started the fire and caused the plaintiff's injuries.
- Successfully obtained summary judgment dismissal with prejudice of an action involving a plaintiff claiming the feed provided by the client caused the death of their rabbits. The plaintiff failed to produce any proof that aflatoxin in the insured’s feed actually killed their rabbits, and they could not prove causation at trial.
- Obtained a discontinuance as against a manufacturing client just prior to the start of trial.
- Successfully obtained summary judgement in an asbestos products liability case with positive product identification and a $400,000 settlement demand. Worked with the client and former employees to extensively research and collect historical documents for the first time, drafted voluminous interrogatory responses that will be used to secure dismissals in future matters, conducted exposure-limiting cross-examination, and drafted a motion for summary judgment that the plaintiff chose not to oppose.
- Obtained a dismissal on summary judgment of toxic-tort claims by a worker claiming the need for a lung transplant against a property owner. Also successfully recovered attorney's fees from the tenant.
- Obtained summary judgment for a roofing manufacturer in a living mesothelioma case with only two viable defendants and a settlement demand of over $1 million, saving the client the cost of trial and a potentially large adverse verdict.

- Obtained summary judgment to dismiss the plaintiff's complaint in a lead poisoning case brought against an insured homeowner client based on the client's lack of notice of a potential hazard in the property. Following the dismissal of the complaint at the trial court level, successfully defended the plaintiff's appeals to the Appellate Division and NYS Court of Appeals.
- Secured a voluntary dismissal for a plumbing contractor in a mesothelioma case involving a young plaintiff with young dependents. The result was based on extensive research and analysis of historical government records to confirm the client was not involved in the construction project at issue and extensive negotiations with opposing counsel. Saved the client the cost of a dispositive motion and potentially dangerous trial verdict.
- Secured a voluntary dismissal for a school bus manufacturer in a mesothelioma case based upon extensive research and analysis of the company's complex corporate history and transactional documents, government sales records, and legal analysis to establish that the client was not liable for the product at issue. Avoided a costly summary judgment motion and established precedential discovery responses and materials for the client to use in defending future litigation.
- Successfully obtained summary judgment for a manufacturing client in an asbestos matter where the plaintiff sought to rely on inadmissible hearsay. The case decision is now routinely relied upon by defendants in NYS asbestos litigation.
- Defended complex mass tort cases through trial that involved deceased plaintiffs. Through intensive investigation, successfully refuted the plaintiffs' witnesses' testimony, resulting in the dismissal of the case against the client.
- Successfully obtained summary judgment dismissal of the action with prejudice. After the client, a distributor of automotive products and solvents, made a prima facie showing of entitlement to summary judgment based on indemnity agreements and pass-through liability theory of defense, the plaintiff failed to demonstrate that the client had any independent liability for which it was not entitled to indemnification from the product manufacturer(s).
- Successfully obtained summary judgment dismissal with prejudice of a personal injury action involving allegations of asbestos exposure. Defense counsel secured a favorable testimony on cross-examination of a product identification witness that demonstrated the plaintiff could not have been exposed to asbestos from the client's product.