

Product Liability and Mass Torts Litigation Experience

The lawyers in the Product Liability and Mass Torts Group at Quinn Emanuel are nationally recognized leaders in the field. Quinn Emanuel has twice been named “Product Liability Group of the Year,” three times shortlisted for the “Chambers USA Awards for Excellence,” and twice named “Product Liability Practice Group of the Year” by *Chambers USA*.

Quinn Emanuel is frequently chosen by Fortune 100 companies to oversee their most significant, mass tort litigations. For instance, we serve on the national trial counsel team for Colgate-Palmolive Company’s talcum powder litigation docket, and we are national and trial counsel to Allergan in cases involving its prescription antidepressant medications, Lexapro® and Celexa®. Our lawyers have been involved in many of the most significant complex tort and consumer fraud litigations of the last 30 years, many of which were and are considered “bet-the-company” matters. Our attorneys have also been involved with some of the highest-profile mass torts and crises of recent time, including the BP oil spill.

We have a deep bench of first chair trial lawyers and can deploy multiple trial teams nationwide and seamlessly without losing sight of our clients’ overall goals and objectives. We have extensive experience positioning cases for success *before* trial, including challenging pseudo-scientific expert opinions at the *Daubert* stage. Because we are a credible trial threat, our trial experience and expertise help secure better pretrial settlements. Our lawyers have also successfully served as appellate counsel in landmark cases on significant class action and tort law issues in state and federal appellate courts – including the United States Supreme Court. In addition, we can deploy our nationally-recognized appellate team at the pretrial and trial stages to help win cases at the trial level and best position cases post-trial.

We have experience litigating complex mass tort cases from the other side of the “v” as well. Quinn Emanuel was appointed to the Plaintiffs’ Executive Committee by the federal district court overseeing the multi-district litigation for product liability claims against 3M related to 3M’s defective combat earplugs. We served as lead or co-lead trial counsel in two bellwether trials involving four individual plaintiffs, and secured verdicts in favor of the plaintiffs in all four cases. We also successfully defeated an effort by 3M to shield itself from liability through a Chapter 11 petition filed by its wholly-owned subsidiary (and co-defendant) Aearo, first by defeating a motion by Aearo to enjoin litigation against 3M and then by obtaining dismissal of the entire bankruptcy proceeding after a five-day trial.

More recently, we were appointed to the Plaintiffs’ Executive Committee in connection with litigation by individuals exposed to contaminated water at Camp LeJeune, a military training facility in North Carolina. The first bellwether trial is scheduled to begin in 2024.

Our attorneys are widely regarded as some of the premier products liability attorneys in the United States and have been recognized repeatedly as the “go to” lawyers by numerous legal publications, including *Chambers USA*, *The National Law Journal*, *Law360*, *Legal 500 USA*, *The International Who’s*

Who of Product Liability Defence Lawyers, The Best Lawyers in America, Fortune, and Crain's New York Business.

NOTABLE CURRENT AND PAST REPRESENTATIONS:

CURRENT REPRESENTATIONS

- We represent national **Hyundai** and **Kia** vehicle distributors **Hyundai Motor America** and **Kia America, Inc.** in opt-out cases from a class settlement involving allegations that they sold around nine million cars without immobilizers that were thus purportedly "easy to steal." We have obtained complete victories in multiple individual court actions and arbitrations against many opt-out plaintiffs, often in early stages and other times on the merits at arbitral hearings. Each case that has been decided on the merits had ended in our clients being dismissed without any finding of liability against them. These wins send a strong message to plaintiffs' attorneys who attempt to leverage social media to gather thousands of class action opt-outs seeking enhanced settlements.
- We serve as lead counsel for **General Motors** in a putative multi-state class action lawsuit alleging defects in certain MY 2015-2018 GM vehicle transmissions.
- We serve as trial counsel for **Colgate-Palmolive Company** in cases venued throughout the country in which individuals claim to have contracted asbestos-related diseases from consumer use of cosmetic talcum powders allegedly tainted with asbestos formerly manufactured by our client. Since QE became involved in these cases, through an aggressive and focused litigation strategy, we have obtained dismissals in many cases and have recently achieved a string of significant victories at the pretrial, trial, post-trial and appellate stages of the litigation:
 - QE obtained summary judgment victories in Pennsylvania, California, Maryland, New York, Rhode Island, and Wisconsin courts, and in federal district courts in Georgia and North Carolina. QE has successfully defended appellate challenges to multiple summary judgment victories.
 - QE has also successfully moved, in multiple jurisdictions, to exclude testimony from experts who claimed to have found asbestos in our client's talcum powder products, by demonstrating that those experts employed flawed microscopy techniques. Courts that have granted such motions include Pennsylvania, California, New York, Maryland, and federal district courts in Georgia, the District of Columbia and North Carolina.
 - QE previously tried three cases to jury verdict in Los Angeles, and we obtained complete defense verdicts in all three of those cases as well. After each verdict, the jurors have credited the strength and credibility of the defense experts, and Quinn Emanuel's cross-examinations that exposed the analytical gaps in Plaintiff's theories of product defect and causation. More

recently, QE and co-counsel obtained a complete defense verdict for Colgate following a jury trial in Kentucky.

- We represent **Airbus Helicopters, S.A.S.**, in a case arising out of a fatal helicopter crash in the Grand Canyon, where plaintiffs allege that defects in the helicopter's design caused their injuries. The case is set for trial in February 2024.
- We represent affiliates of **Koch Industries** in defense of class actions and governmental lawsuits relating to the storage of petroleum coke, fugitive dust emissions, and state and municipal regulatory challenges.
- We represent **Koch Industries** and its affiliates in litigation brought by the Minnesota State Attorney General's Office that seeks to use Minnesota consumer protection laws to limit or discontinue fossil fuel extraction.
- We represent **Allergan** in personal injury litigation alleging that the use of certain prescription medications during pregnancy caused birth defects and/or autism in infants allegedly exposed *in utero*.
- We represent **an automotive client** in multiple personal injury and wrongful death lawsuits in several state courts based on the plaintiffs' alleged exposure to asbestos from automobile products distributed in the late-1980s and 1990s.
- We represent **Polaris Inc.** in a number of cases alleging personal injuries and wrongful death in connection with fires and other thermal incidents in Polaris side-by-side vehicles, as well as in an ongoing nationwide class action relating to purported thermal issues in certain other vehicles that it manufactures.

NOTABLE PAST REPRESENTATIONS

- We represented **Tesla** in a case involving their groundbreaking Autopilot self-driving technology and obtained a unanimous appellate victory that reversed a trial court order exposing our client to billions of dollars in punitive damages.
- One of our partners previously represented **General Motors** in thousands of individual product liability claims and more than one hundred class actions arising out of 2014 recalls of millions of vehicles, involving claims by more than 7,000 personal injury and death claimants and economic loss claims of over fifteen million vehicle owners or lessees.
- We represented **SEACOR Holdings, Inc., O'Brien's Response Management, L.L.C., and National Response Corporation** in a large number of cases relating to the DEEPWATER HORIZON oil spill clean-up, all of which were transferred to and consolidated with an MDL in the U.S. District Court for the Eastern District of Louisiana. In the MDL, the court named us as defense liaison counsel for all defendants that participated as clean-up responders. Thousands of claims were filed against these responders, who were engaged in a variety of aspects of a highly

complex clean-up in the Gulf of Mexico, including dispersant operations, skimming of oil, *in situ* burning, vessel decontamination, and onshore/beach clean-up efforts.

- We previously obtained a significant victory for SEACOR in *In re: Oil Spill by the Oil Rig DEEPWATER HORIZON in the Gulf of Mexico, on April 20, 2010*, No. 2:10-MD-2179, 2011 WL 4829905 (Oct. 12, 2011), *aff'd*, No. 11-31172, 11-31178, 11-31179, 11-31180, 11-31181, 11-31183, 2012 WL 6203601 (5th Cir. Dec. 13, 2012), when the United States Court of Appeals for the Fifth Circuit affirmed the MDL court's dismissal of all claims related to SEACOR vessels' emergency response efforts, including their efforts to extinguish the fire aboard the DEEPWATER HORIZON rig, on foreseeability grounds.
- In May 2020, we obtained a judgment on the pleadings holding that O'Brien's and National Response Corporation did not owe BP indemnity on the thousands of back-end-litigation-option cases being filed pursuant to opt outs from the class action settlement that BP negotiated in 2013, saving O'Brien's and National Response Corporation potentially hundreds of millions of dollars in indemnity obligations and successfully defended that judgment before the Fifth Circuit.
- We represented **NutriBullet** in dozens of product lawsuits in state and federal courts throughout the U.S. alleging that the NutriBullet blender explodes when hot liquids are blended in it, causing burns and other injuries. Quinn Emanuel also defended NutriBullet in a putative class action alleging the same product defect.
- We represented **a major chemical manufacturer** with respect to multiple mass tort claims alleging that toxic chemicals have migrated from a CERCLA cleanup site, purportedly causing personal injuries and diminished property values as to over 1,000 people.
- We represented **LG Chem, Ltd.** in a lawsuit filed by Travelers Property Casualty Company of America and Travelers Indemnity Company, alleging that lithium ion batteries manufactured by LG for hybrid-electric buses caused a fire at a bus manufacturer's facility, causing significant damage to the facilities and stock. The case was resolved on highly favorable terms.
- We represented **EOS Products, LLC** in a series of consumer class actions alleging that consumers were experiencing severe allergic reactions to the globally popular EOS lip balms, including a class action in the Central District of California brought by famed U.S. lawyer Mark Geragos. The sensationalistic allegations were headline news in the US on television shows such as Good Morning America, Today, and TMZ, and the litigation was featured on numerous popular media outlets. Ten follow-on class actions were soon filed in seven states by other plaintiffs' attorneys. Within days of the filing of the first suit, we negotiated a very favorable settlement that included the public relations coup of return media appearances by Geragos lauding the company's response and extolling the product. This quick, creative, and effective resolution halted—and reversed—what could have been a product-crippling media onslaught. Following various interim developments that led to

revisions of the initial settlement, the parties finally resolved the actions and the cases were dismissed in early 2018.

- We obtained a significant victory on behalf of **G-I Holdings, Inc.** Chief United States District Judge Garrett E. Brown, Jr. and Bankruptcy Judge Rosemary Gambardella, both of the District of New Jersey, confirmed the company's plan of reorganization, which included a global settlement with representatives for present and future asbestos claimants, its largest creditor constituency, to establish a \$775 million asbestos trust under 524(g) of the bankruptcy code.
- We were lead counsel to **Chartis** in multi-district litigation and several related class actions involving thousands of claims related to defective Chinese manufactured drywall, as well as litigation seeking compensation from the Chinese and German manufacturers of the defective products.
- We represented **The Home Depot** in a consumer class action and defeated a request for a preliminary injunction and class certification in a federal court action seeking to enjoin The Home Depot from nationwide sales of an allegedly dangerous consumer product.
- We represented major real estate developers, including **KB Home, Dell Webb**, and others, in numerous construction defect class actions and actions seeking recovery for personal injuries allegedly caused by such defects, mold, and related injuries.

APPEALS

- We represented **A. O. Smith Water Products Company** in a personal injury action brought by the estate of a decedent who allegedly contracted mesothelioma based on exposure to asbestos in water heaters sold by A. O. Smith. We joined the case after a 3-week jury trial in which A.O. Smith was found liable for the decedent's injuries and ordered to pay \$60 million in damages. In post-trial motions, we succeeded in reducing the amount of damages from \$60 million to \$29 million, and on appeal to the First Department, we were able to further reduce the judgment against A. O. Smith from \$29 million to \$6 million—only 10% of the original verdict amount.
- In a major appellate victory for **PG&E** in the California Court of Appeal for the Third District, Quinn Emanuel greatly limited PG&E's litigation exposure by eliminating the threat of punitive damages against PG&E for the 2015 Butte Fire. The court held that, in light of PG&E's extensive vegetation management program along its 135,000 miles of powerlines, PG&E could not possibly be found to have consciously disregarded the risk of tree-related wildfires, as would be required to award punitive damages. In addition to saving PG&E from potentially billions of dollars in punitive damages, the decision creates important new California law protecting companies that institute risk management programs from the threat of punitive damages in the future.
- The California Court of Appeals affirmed a trial verdict in favor of our client, **Colgate-Palmolive Company**, following a jury trial in a case alleging that cosmetic talcum powder products our client manufactured caused asbestos-related diseases.

In June of 2016, a jury found the Plaintiff was not exposed to asbestos from our client's cosmetic talcum powder. Plaintiff appealed the verdict along with certain pre-trial evidentiary rulings narrowing the scope of opinions Plaintiff's product contamination and exposure expert could offer at trial. In a unanimous decision, the California Court of Appeal affirmed this jury verdict and the pretrial evidentiary preclusion orders.

- We obtained a complete affirmance in the Wisconsin Court of Appeals of a decision granting summary judgment to our client, **Colgate-Palmolive Company**, in a case alleging that our client's cosmetic talcum powder products contained asbestos. This is the first appellate decision affirming a grant of summary judgment in favor of a defendant cosmetics company in an action alleging asbestos contamination in talc, and thus stands as a significant win in an area in which other talc defendants have been hit with verdicts of hundreds of millions and even billions of dollars.
- We obtained a significant appellate victory for **Colgate-Palmolive Company**, in a case alleging that our client's talcum powder products were contaminated with asbestos. The Pennsylvania Superior Court—Pennsylvania's intermediate appellate court—affirmed summary judgment in favor of our client, holding that the plaintiff had failed to present evidence that would support a jury finding that our client's product caused her disease.
- We successfully represented **Colgate-Palmolive Company** in an appeal to the U.S. Court of Appeals for the Fourth Circuit challenging the denial of our client's motions to vacate orders remanding two asbestos-related cases to state court. The court of appeals, sitting *en banc*, agreed with our argument that 28 U.S.C. 1447(d)'s prohibition on "review[]" of remand orders does not preclude "vacatur" of a remand order pursuant to Fed. R. Civ. P. 60(b)(3) due to fraud, misrepresentations, or other misconduct in procuring that order. This ground-breaking decision provides a powerful new tool for the defense bar and ensures that federal courts are not impotent when plaintiffs and their counsel seek to avoid federal jurisdiction through misconduct.
- We obtained a 9-0 win in the U.S. Supreme Court for **Shell Oil** in *Kiobel v. Royal Dutch Petroleum*, 133 S. Ct. 1659 (2013). The Court held that the Alien Tort Statute does not apply to alleged violations of international law that take place within the sovereign territory of a foreign nation.
- We obtained a 6-2 win in the U.S. Supreme Court for **Wyeth** in *Bruesewitz v. Wyeth*, 131 S. Ct. 1068 (2011), which held that the National Childhood Vaccine Injury Act expressly preempts state-law design-defect claims against manufacturers of childhood vaccines.
- The California Court of Appeals affirmed summary judgment for our client **Coty Inc.** in a case alleging that Coty's talcum powder products contained asbestos. Invoking evidentiary requirements previously imposed primarily in criminal cases, QE successfully persuaded the trial court to exclude a declaration from the plaintiff's expert, who claimed to have found asbestos in a container of Coty talc. The Court

of Appeals affirmed this ruling, which makes it difficult for plaintiffs to present direct evidence of exposure in asbestos contamination cases.

PRODUCT LIABILITY AND MASS TORTS PARTNERS

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