

Product Liability and Mass Torts Litigation Experience

NOTABLE CURRENT AND PAST REPRESENTATIONS:

CURRENT REPRESENTATIONS

- We are trial counsel for a **major consumer products company** in cases venued throughout the country in which individuals claim to have contracted asbestos-related diseases from cosmetic talcum powders formerly manufactured by our client. Since QE became involved in these cases, through focused litigation strategy, we have obtained dismissals in many cases and have recently achieved a string of significant victories:
 - In just the past year, QE obtained four summary judgment victories in Pennsylvania, California, and Wisconsin courts, and in federal district court in Georgia. QE successfully defended the Wisconsin decision on appeal, obtaining a complete affirmance by the Wisconsin Court of Appeals.
 - Also this past year, QE tried a case to verdict in Kentucky, and obtained a defense verdict. QE previously tried three cases to jury verdict in Los Angeles, and obtained defense verdicts in all three cases. 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.
 - 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 and the District of Columbia.
- We represent **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 have been 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 during the response. Thousands of claims have been 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.

- 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 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 **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.
- We represent **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 is also defending NutriBullet in a putative class action alleging the same product defect.
- We represent 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.

NOTABLE PAST REPRESENTATIONS

- 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

- 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, a **major consumer products 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, a **major consumer products 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 successfully represented **a major consumer products 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), which 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 **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

Adam Abensohn
William Adams (Appellate)
James Asperger
Andrew Berdon
Sandra Bresnick
Jonathan Bunge
Jane Byrne
Michael Carlinsky
David Cooper (Appellate)
Michelle Fox
Dave Grable
J.D. Horton

Valerie Lozano
Michael Lyle
Eric Lyttle
Silpa Maruri
Michael Mills
Shon Morgan
Andrew Rossman
Andrew Schapiro
Meredith Shaw
Manisha Sheth
Claude Stern
Kathleen Sullivan (Appellate)

Stephen Swedlow
Anne Toker
Morgan Tovey
Viola Trebicka

Sandy Weisburst (Appellate)
Richard Werder
Thomas Werlen
Michael Williams