

# OUR PRACTICE

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## Product Liability, Class Action and Mass Tort

**Our large team of product liability lawyers provide a wealth of experience in defending manufacturers in class actions, mass torts, complex litigation and significant individual cases involving virtually every type of product.**

Baker Donelson manages multiple-suit, mass-tort, large class action as well as high stakes "bet the company" cases involving serious personal injury or death. We have a strong track record defending such cases in some of the nation's most dangerous venues, and we have proven experience with the complex technical, scientific and medical/health issues involved with these claims.

Our more than 75 lawyers are trusted advocates with decades of trial experience who serve as national, regional and local counsel. We advise clients throughout the United States, with a focus on the southeastern U.S.

**Wide variety of industries.** We defend clients facing claims in a wide array of industries including motor vehicles, medical devices, pharmaceuticals, dietary supplements, consumer products, children's products, asbestos and tobacco. Our team has the specialized knowledge and understands the unique liability issues faced by the transportation industry, as well as nursing homes and other medical service providers in the health care industry.

**Types of claims.** The lawyers on our team defend a wide array of complex product and mass tort claims including the defense of design, warning and manufacturing defect cases for manufacturers, distributors and retailers.

**Regulatory compliance and product recalls.** We advise clients concerning product safety and regulatory compliance issues, and we have served as lead counsel in multiple product safety recalls for manufacturers.

**Toxic torts.** Attorneys on our team have been at the forefront of asbestos and toxic tort litigation since its inception not only defending, but also addressing the policy and tort reform issues through industry-coordinated appellate advocacy. We have substantial experience defending manufacturers, distributors and service providers – including mining companies, solvent manufacturers, water treatment providers and radioactive waste generators – from environmental and toxic tort claims. Our lawyers have addressed claims arising from exposure to chemical and biological contaminants, asbestos, lead paint, PCBs, vinyl chloride, printing solvents, methylene chloride, petroleum, lead and other toxic chemicals.

**Nationally recognized.** *Best Lawyers in America*® has ranked our firm and our individual attorneys among the leading practitioners in the U.S. for both product liability litigation and mass tort litigation. Our attorneys are members of the American College of Trial Lawyers, the American Board of Trial Advocates, and the Product Liability Advisory Council and active in DRI, the International Association of Defense Counsel, the Federation of Defense & Corporate Counsel and the American Bar Association – Products Liability Committee – associations that enable us to share our experiences and to benefit from the collective efforts of other defense professionals throughout the nation.

**Thought leadership.** Members of our group currently serve as chair of the DRI Drug & Medical Device Committee and co-chair of the ABA Products Liability Committee.



## Case Studies

- Summary Judgment Victories for Choice Hotels International, Inc. - TVPRA Litigation



## Representative Matters

- Extensive experience in defending major automobile manufacturers against product defect claims, including defense verdict after five-week jury trial involving 18-year-old driver who was ejected from an SUV and rendered a paraplegic and defense verdict after two-week trial involving deaths of three children who were ejected from an SUV.
- Vast experience as national and regional counsel in pharmaceutical product defect cases, including lead counsel for distributor in mass tort propofol cases in Las Vegas, lead counsel for manufacturer/distributor in Phenergan cases filed throughout the US, and lead counsel for largest generic manufacturer of store-brand products in all phenylpropanolamine (PPA) cases filed in Tennessee.
- Represented spinal screw manufacturer in mass tort litigation (more than 1,600 separate plaintiffs in 35 state and federal cases) involving claims of manufacturing defects and multiple FDA violations. Obtained 25 summary judgments, seven affirmances on appeal, ultimate dismissal of all claims and no judgment against the client.
- Defended a utility company against charges of negligence by an employee of an independent contractor who sustained permanent lung injuries during a construction project. Obtained summary judgment and saved the company several million dollars.
- Defended manufacturer of component part of commercial refrigeration unit in product liability lawsuit. The lawsuit was filed in federal court by a serviceman who sustained fourth degree burns while attempting to service the part. Excluded plaintiff's expert and obtained summary judgment on eight of ten claims. Obtained unanimous jury verdict at trial on the remaining claims. The case was the Featured Verdict in the February 2014 issue of *Verdict Search Georgia*.
- Successfully defended major automobile manufacturer in a product liability action involving three children who were ejected from the vehicle and died of resulting injuries. Plaintiffs alleged that the sport utility vehicle's handling and stability system was defectively designed. After a two-week trial, the jury found that the vehicle was not defective.
- As co-liaison defense counsel for Mississippi tobacco litigation, preserved federal diversity jurisdiction with successful dismissal of fraudulently joined resident retailer defendants under Mississippi Innocent Seller Statute.
- Defended major tobacco manufacturer in series of smoking and health cases in Tennessee. Four-month trial resulted in defense verdict in consolidated case involving three plaintiffs; voluntary dismissal of numerous other cases.
- Represented one of the world's largest car manufacturers in asbestos friction product cases in Tennessee.
- Represented manufacturer of spray foam insulation in an action for personal injury and property damage. Resolved by favorable settlement to defendant client.
- Obtained a summary judgment verdict in a vicarious liability legionnaire's disease case regarding the serious illnesses of two hotel guests. The client had previously been represented as an additional insured by insurance defense counsel for the franchisee. The court granted a renewed motion, releasing the client from the case.
- Defended a food processing facility in a Clean Water Act (CWA) citizen suit and common law nuisance action by 45 neighbors complaining of alleged odors and overflow from discharge to a city sewer system, resulting in a jury awarding no damages against the client after a three-week federal trial and a favorable post-trial settlement on the remaining CWA claims.

- Defense verdict at trial on behalf of development company in Federal Court on claims seeking over \$4 million and attorneys fees for alleged Clean Water Act violations and nuisance, arising out of development of residential subdivision.
- Represented French manufacturer of jet engines in suit by commuter airline, alleging that defective engines caused failure of airline. Favorable settlement.
- Represent engineering consultant to military in products liability action alleging design defects in communication cables for military helicopters; action dismissed under political question doctrine.
- Defended appliance manufacturing client in class action suit in which plaintiffs alleged that client's appliances were defective and did not meet the expectations of a reasonable consumer because of a lack of reliability and need for repairs. We first removed the suit to Louisiana federal court under the Class Action Fairness Act and preemptively attacked certification of the class by filing a Motion to Dismiss, or alternatively, Motion to Strike the Class Claims. In its order granting the Motion, the court struck the class action allegations and then remanded the only two remaining plaintiffs' claims back to state court.
- Successfully defended major government contractor in the second of five bellwether cases to be tried in federal multidistrict litigation comprising tens of thousands of individual lawsuits alleging injuries due to formaldehyde exposure while living in FEMA trailers following the devastation from Hurricane Katrina. Received unanimous jury verdict after two-week trial. Following verdict, obtained dismissal of contractor from third bellwether case as well.
- Represented major railroad company in multiple lawsuits arising out of a derailment resulting in fires burning for five days, the government-institution of a no-fly zone over a wide area of cultivated land during prime time for aerial delivery of herbicides, and the evacuation of thousands of people. Over forty suits were removed and consolidated. After the United States District Court certified a class action involving over 12,000 claimants seeking a wide range of compensatory damages and punitive damages, the Fifth Circuit reversed certification, and the case thereafter settled on a settlement class basis. The litigation involved multiple issues including but not limited to legal issues of the federal preemption of state law tort duties, choice of law, proper preservation and production of enormous amounts of electronic evidence, and factual and expert analysis of fate and distribution of released chemicals.