



Product Liability

Our product liability team provides experienced representation in responding to the legal and reputational challenges that arise in the event of alleged product defects or failures, regulatory non-compliance, and recalls or allegations of misrepresentation resulting in product liability litigation, including class actions.

We have represented a wide range of industrial, consumer and medical products manufacturers in sophisticated, multijurisdictional proceedings. We work closely with in-house counsel to address litigation objectives. We have significant experience managing cross-border litigation arising out of the same or similar allegations. We have experience supporting clients through product recall campaigns (including Health Canada and Environment Canada recalls), and regulatory investigations.

We deliver value to our clients through:

- **Strategy defined by business objectives:** Our approach to any product liability matter is to align our strategy with your desired business outcomes. An advised course of action at each stage will be focused on securing the greatest likelihood of meeting these goals, whether it involves negotiated settlement or vigorous advocacy.
- **A practical approach to managing risk:** Our strategy will account for the risk tolerance of our client, and the mitigation of financial, regulatory and reputational risk inherent in complex, and often highly-publicized litigation. Where appropriate, we liaise with risk management, insurance and government and public relations advisors to provide clear, coherent advice.
- **Demonstrated experience and success:** We have successfully defended dozens of major product liability claims, by eliminating or narrowing a claim prior to class action certification, through negotiation of creative settlements, or through success at trial or summary judgment. When a hearing or trial is required, we provide a zealous defence of our client's interests.
- **Service delivery tools and technology:** We adopt best practices in project management, knowledge management and the use of integrated technologies in order to provide the best value and service to clients, and to enable our lawyers to focus on strategy and tactics, rather than administration. These resources include e-discovery technology, document generation tools, data mining and visualization software and Technology Assisted Review tools.
- **A broad team with varied expertise and background:** Our team is uniquely qualified with trailblazing leaders in class actions and specialists in sciences. One of our team leaders, Michael Eizenga, was a former plaintiffs' side counsel and acted on the first ever product liability class action in Canada. Our in-house scientific advisors, including engineers, provide technical assistance on matters relating to regulation of products.

We are active members of the American Bar Association, Defense Research Institute and the International Association of Defense Counsel.

Select Experience

- **C.R. Bard Inc.** and its affiliates, in defence of several medical device product liability cases, including those related to surgical mesh, stents, and devices that prevent blood clots.
- **C.R. Bard Inc.** and its affiliates, in defence of more than 15 class actions relating to medical devices including pelvic mesh, hernia mesh and inferior vena cava filters.
- **Monsanto Corporation**, in its defence of an action alleging product defects in its Touche tomato seeds.
- **Trinity Industries Inc.** and its affiliates, in a complex products liability class action, alleging a design defect and failure to warn on behalf of a proposed national class.



- **A.O. Smith**, in multiple claims by consumers alleging negligent manufacture, negligent design and failure to warn related to water heaters and fan motors.
- **Hewlett Packard**, in defence of allegedly defective large-scale banner print materials.
- **Volkswagen AG** and affiliates, for all diesel and other emissions class actions and as primary defence counsel in the consumer, securities and cartel class actions.

Recent Recognitions

- **Chambers Canada**
Litigation (General Commercial)
Class Action (Defence)
- **Canadian Legal Lexpert Directory**
Repeatedly Recommended, Litigation (Product Liability), Calgary
Most Frequently Recommended, Class Actions, Toronto

Key Contacts

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