Mass Torts and Product Liability

Skadden

The Mass Torts and Product Liability Group at Skadden has been involved in many of the most significant complex tort, product liability and multidistrict litigations of the last 30 years, including numerous "bet-the-company" matters. The group pioneered the "national counsel" model of handling mass tort litigation and has strong relationships with local defense lawyers in virtually every state. Attorneys in our ranks have handled some of the most noteworthy cases nationwide for clients such as Alaska Airlines, Bayer, DePuy Synthes, Endo Pharmaceuticals, Ethicon, Hyundai, Intuitive Surgical, Janssen Pharmaceuticals, Johnson & Johnson, Kia, Lincoln Electric, Merck, Monsanto, National Football League, National Hockey League, Pfizer, Snap, Toyota and Zhejiang Huahai Pharmaceuticals. Whether serving as national coordinating counsel, lead trial counsel, resolution counsel or appellate counsel, we deliver results at every phase of mass tort and product liability litigation.

Bet-the-Company Defense Across Industries

Our practice spans the most significant and rapidly evolving areas of mass tort and product liability defense, including:

- Pharmaceutical and medical device litigation.
- Food contamination and adulteration.
- AI and algorithmic system liability.
- Social media and digital platform exposure.
- Toxic tort litigation.
- Medical monitoring class actions.
- Automotive product liability.
- Emerging and regulated consumer products.
- Sports-related personal injury claims.

High-profile mass tort and product liability matters frequently involve or generate related consumer class actions, mass arbitrations, and government investigations and enforcement proceedings at the state and federal level. We work seamlessly to muster resources within our practice group and to collaborate with other attorneys throughout the firm to manage these parallel proceedings as part of a coordinated defense strategy.

Trial-Tested Litigators Delivering Results From MDL Strategy Through Appeal

Our practice comprises experienced litigators who have defended cases on every level — from formulating and implementing national strategy in multijurisdictional litigation to conducting *Daubert* hearings and trials, as well as pursuing significant appeals.

Our attorneys have been involved in an exceptionally large number of MDL proceedings (often as lead counsel) and have been the source of creative, often-emulated defense coordination strategies and reform initiatives.

Clients rely on us to handle all aspects of mass tort and product liability litigation, including:

- Preparing for and conducting precedent-setting trials.
- Serving as lead defense counsel in MDL proceedings.
- Crafting strategies to win early key pre-trial motions, including obtaining grants of summary judgment motions (*e.g.*, absence of admissible causation evidence) and denials of personal injury and medical monitoring class certification motions.
- Developing experts and conducting expert discovery.
- Coordinating discovery in thousands of actions.

Skadden also has served as appellate counsel in landmark cases in many state and federal appellate courts and files *amicus* briefs in appeals that raise significant substantive law issues.

Scientific Rigor and Strategic Efficiency

Our approach combines scientific rigor with strategic efficiency. We partner with leading scientific and technical experts across disciplines, challenge flawed methodologies with precision and leverage disciplined case management processes to identify issues and bring complex litigation to early, definitive conclusions. We also bring sophisticated e-discovery and information governance capabilities to manage the vast document volumes inherent in mass tort proceedings.

Pre-Litigation Counseling

Skadden counsels clients on the potential product liability implications of new product development, drawing on experience working alongside in-house scientists and regulatory teams to help mitigate litigation risk before claims arise.

Thought Leadership and Policy Advocacy

Skadden has been involved in numerous developments in class action and MDL proceedings law. Members of our team were instrumental in the passage of the Class Action Fairness Act, which expanded federal jurisdiction over class actions and prevents plaintiffs from "forum shopping" by filing their claims in state courts known to be plaintiff-friendly. We also regularly represent the Product Liability Advisory Council and the U.S. Chamber of Commerce as *amici* in appeals involving important product liability and class action principles. Members of our team also frequently testify before congressional and state legislative committees and judicial rulemaking bodies in support of reform initiatives.

Mass Torts and Product Liability Practice Recognition

- **First tier for Product Liability and Recall**
  – *Benchmark Litigation*, 2027
- **Ranked in Product Liability and Mass Torts: The Elite**
  – *Chambers USA 2026*
- **Top-ranked in Mass Tort Litigation/Class Actions — Defendants**
  – *Best Lawyers* Best Law Firms 2026
- **Distinguished in Litigation for Product Liability** — ranked in the top 8% of all firms
  – The BTI Consulting Group, 2026
- **Products Liability Litigation Department of the Year Finalist**
  – *The American Lawyer*, 2023
- **Washington, D.C. Litigation Department of the Year for Product Liability**
  – *The National Law Journal*, 2022
- **A Product Liability Group of the Year**
  – *Law360*, 2022

Experience

Automotive and Transportation

- **Alaska Airlines** in the defense of a class action lawsuit filed by residents in communities surrounding the Seattle-Tacoma International Airport. The plaintiffs are seeking injunctive relief and damages for harm allegedly caused by high levels of environmental pollutants emitted from planes.
- **Hyundai Motor Company**, **Kia Motors Corporation**, **Hyundai Motor America, Inc.** and **Kia Motors America, Inc.** in securing the dismissal of a multidistrict litigation in connection with airbag control units supplied by ZF-TRW.
- **Nissan Motor Co., Ltd.** in securing a Ninth Circuit affirmance of the dismissal of a federal class action complaint (and the dismissal of a subsequent complaint by the trial court) in connection with Nissan's vehicles equipped with the "Intelligent Key," in which plaintiffs alleged that because of noncompliance with certain provisions in the Federal Motor Vehicle Safety Standards, drivers could depart their vehicle when the automatic transmission was not in the "park" position, allowing the vehicle to roll away unattended.
- **Toyota Motor Corporation** and **Toyota Motor Sales, U.S.A.** in multidistrict unintended acceleration litigation, venued in the Central District of California.

Mass Torts and Product Liability

Continued

Pharmaceuticals and Medical Devices

- **DePuy Synthes** in reaching the settlement before trial of personal injury claims resulting from an alleged defect in an ATTUNE knee implant.
- **DePuy Synthes** and its parent company, **Johnson & Johnson**, in:
  - Securing a unanimous defense verdict in a two-week jury trial in the U.S. District Court for the District of Arizona regarding an allegedly defective metal-on-metal hip implant product.
  - Successfully settling a federal mass tort multidistrict proceeding for $2.5 billion, resolving approximately 8,000 U.S. personal injury claims against Johnson & Johnson's DePuy Synthes Orthopedics unit in connection with one of its hip implant products. Skadden attorneys provided guidance on new MDL strategies that resulted in a bellwether trial victory that paved the way for the resolution.
- **Endo Pharmaceuticals Inc.** and **Endo Health Solutions Inc.** as nationwide counsel in multidistrict litigation alleging the abuse and misuse of prescription opioid medications.
- **Ethicon, Inc.** as lead counsel in a products liability multidistrict litigation encompassing tens of thousands of personal injury actions involving the company's Gynecare® pelvic mesh products.
- **Intuitive Surgical, Inc.** in securing:
  - A defense verdict in its favor in a five-week Washington state court trial in which the plaintiff alleged the company was negligent in its training of a doctor who performed a robot-assisted surgery on a patient who later died. This case was the first to go to trial of at least 26 lawsuits against Intuitive Surgical alleging injuries tied to its "Da Vinci" robotic system.
  - The affirmance of summary judgment in favor of Intuitive Surgical in a products liability lawsuit regarding its robotically assisted surgical instruments. The plaintiffs alleged, among other things, that Intuitive Surgical defectively designed one of its electrosurgical instruments, causing one of the plaintiffs to sustain a thermal burn to her bowel during a robotically assisted hysterectomy.
- **Janssen Pharmaceuticals Inc.** and **Teva Branded Pharmaceutical Products, R&D, Inc.** as lead discovery counsel in cases alleging injuries from the use of Elmiron, a prescription medication indicated for the treatment of symptoms related to interstitial cystitis and painful bladder syndrome. Plaintiffs' primary allegations involved theories of design defect and failure to warn, although some also alleged negligent testing, fraud-based claims and breach of warranty. There were almost 2,000 cases in an MDL proceeding in the U.S. District Court for the District of New Jersey and over 100 additional cases in Pennsylvania and New Jersey state courts.
- **Kenvue, Inc.** in the defense of high-profile multidistrict product liability litigation consolidated in the U.S. District Court for the Southern District of New York. Plaintiffs allege that the use of the company's acetaminophen products during pregnancy caused children to develop autism spectrum disorder and attention deficit disorder and that Kenvue failed to warn of the risks of prenatal exposure to acetaminophen.
- **Merck Sharp & Dohme Corp.** (fka **Merck & Co.**) in:
  - An appeal of a statute-of-limitations dismissal of multiple personal injury cases concerning Fosamax, an osteoporosis medicine. Finding the plaintiffs' appeal presented a question of Virginia state law, the U.S. Court of Appeals for the Second Circuit certified the question to the Supreme Court of Virginia, which ruled in Merck's favor.
  - Securing a favorable ruling in its federal Fosamax MDL proceeding, rejecting a motion by 91 plaintiffs to remand their case to Missouri state court and agreeing with Skadden's argument that the plaintiffs' claims were fraudulently misjoined. Skadden also assisted with briefing on summary judgment in the bellwether case, which ultimately alleged that the company's prescription drug Fosamax caused the plaintiff's bone to fracture.
  - Securing a favorable Virginia Supreme Court ruling after appealing a statute-of-limitations dismissal of multiple personal injury cases concerning Fosamax, an osteoporosis medicine.
  - An appeal overturning a lower court's class certification in connection with litigation related to Merck's Vioxx medication, finding that the plaintiff failed the predominance requirement because his claims implicated individualized questions regarding loss, reliance and causation.
  - Securing a rare All Writs Act injunction when a Louisiana federal court intervened in a state court proceeding to prevent plaintiffs from pursuing certain damages theories already addressed by earlier settlements. The order was directed at a $220 million Vioxx-related state consumer class action.
  - Opposing a petition to the U.S. Supreme Court by plaintiffs challenging the Vioxx resolution program, which settled more than 50,000 personal injury claims.
  - Securing an appellate victory that stated the plaintiffs lacked standing to challenge a Vioxx settlement agreement because they had not participated in it.

- **Obagi Cosmeceuticals LLC** in securing the dismissal by the California Superior Court of a products liability claim in which the plaintiff alleged that use of a product containing hydroquinone caused her to develop cancer.
- **Pfizer Inc.** in:
  - Securing summary judgment in a failure-to-warn products liability litigation alleging Pfizer failed to warn consumers about stomach bleed risks associated with the use of Pfizer's Advil Liqui-Gel product.
  - Heading its efforts in achieving a confirmation plan in connection with Quigley Company, Inc.'s Chapter 11 restructuring after it was found that Quigley was selling insulation products with asbestos.
  - Securing the dismissal of five New York state actions alleging that Zoloft causes birth defects.
  - Securing the dismissal of separate class actions alleging that Centrum multivitamins, Robitussin cough medicine and certain ChapStick products were fraudulently marketed.
- **Purdue Pharma, L.P.** in securing the dismissal of a high-profile law enforcement matter against the makers of OxyContin and other opioid pain medicines.
- **Vintage Pharmaceuticals, LLC**, a subsidiary of Endo Pharmaceuticals, **Generics International Inc.** and **certain of its subsidiaries**, including those commonly known as **Qualitest Pharmaceuticals**, in connection with hundreds of claims brought by plaintiffs alleging serious personal injuries arising from Vintage's generic prescription medications containing propoxyphene.
- **Zhejiang Huahai Pharmaceuticals Co., Ltd.**, **Huahai U.S. Inc.**, **Prinston Pharmaceutical Inc.** and **Solco Healthcare U.S. LLC** as liaison counsel for defendants in multidistrict litigation proceedings in connection with class action claims brought by individuals who took the blood pressure drug valsartan, losartan or irbesartan and were diagnosed with cancer. The lawsuits allege that these medications were contaminated with NDMA, a potential carcinogen. The cases were consolidated in the U.S. District Court for the District of New Jersey.

Agricultural Chemicals

- **Bayer AG** in securing the two-part settlement resolving the substantial majority of 125,000 pending and threatened personal injury cases surrounding weed killer product Roundup and putting in place a mechanism to resolve cases that arise in the future.
- **Monsanto Company** in securing:
  - The settlement, following a nine-week jury trial, of a products liability case in King County Superior Court in Washington state.
  - A favorable jury verdict rejecting all claims in a seven-week products liability trial in Illinois state court, successfully defending against claims brought by four individuals who alleged that they developed non-Hodgkin's lymphoma after being exposed to Monsanto's Roundup weedkiller as well as fire retardant additives — known as polychlorinated biphenyls (PCBs) — which Monsanto manufactured until they were banned in the 1970s. Monsanto argued that there is no scientifically proven link between exposure to these products and developing non-Hodgkin's lymphoma.
  - A victory in a products liability trial held in California Superior Court, Sonoma County. The lead plaintiff alleged that he had developed non-Hodgkin's lymphoma after being exposed to Monsanto's Roundup weedkiller product. The plaintiffs' lawyers voluntarily dismissed the case after three days of trial.

Consumer Products and Retail

- **Johnson & Johnson** in the defense of nationwide talc-related product liability litigation involving allegations that its baby powder causes ovarian and uterine cancer. Skadden's representation includes:
  - Serving as defense counsel in the multidistrict product liability litigation centralized in the U.S. District Court for the District of New Jersey.
  - Securing unanimous jury verdicts in multiple trials, including an Illinois state court case and a multi-plaintiff Missouri suit seeking up to $1 billion in damages, where the jury deliberated less than an hour before returning a defense verdict.
  - Securing a motion to exclude the testimony of plaintiffs' primary causation experts and obtaining summary judgment in two cases, as well as securing the reversal of related direct criminal contempt findings against Johnson & Johnson and one of its witnesses.
  - Obtaining a unanimously granted writ of superintending control by the New Mexico Supreme Court ordering the New Mexico attorney general to produce documents on behalf of other executive agencies, reversing the lower court's ruling and leveling the playing field for the company's defense against claims brought by the attorney general.

- **Philip Morris USA Inc.** in securing a Second Circuit affirmance of the dismissal of a federal putative class action by smokers seeking to hold the company liable for medical monitoring.
- **Sears, Roebuck and Company** in securing the settlement of a class action case in the U.S. District Court for the Northern District of Illinois involving claims that certain models of the company's Craftsman-brand riding lawn tractors are "prone to catch fire."
- **TAMKO Building Products** in securing the:
  - Dismissal by the U.S. District Court for the Middle District of Florida of a class action brought on behalf of thousands of homeowners alleging defective shingles on grounds that the product warranty required that such claims must be arbitrated.
  - Denial of class certification in a putative consumer class action filed in the U.S. District Court for the District of Kansas.

Technology and Social Media

- **Snap, Inc.**, the operator of Snapchat, in parallel civil litigation and multistate attorney general investigations and litigations related to allegations that social media platforms are defective because they are designed to optimize screen time, which purportedly can encourage addictive behavior in adolescents, and because they fail to prevent harm from third-party bad actors.

Manufacturing and Industrial

- **Lincoln Electric Co.** (and other welding industry defendants) as lead counsel in federal multidistrict litigation and state court mass tort proceedings involving more than 12,000 products liability claims brought by individuals who allegedly suffered injuries caused by manganese inhaled during use of welding consumables. Once considered the "next asbestos," with claims valued in the billions, defendants have been victorious in 26 of 31 individual cases that have gone to trial, and three of the plaintiff victories were later overturned on appeal. Over the eight-year history of the litigation, more than 85% of the claims have been voluntarily dismissed, and most of the few remaining were resolved in 2012 through a nominal settlement.

Mining and Natural Resources

- **BHP Billiton** in securing the dismissal of a Pennsylvania state asbestos personal injury litigation.
- **Vale S.A.** with respect to litigation and investigatory proceedings regarding a tailings dam collapse at the Córrego do Feijão iron ore mine in Brumadinho, Brazil.

Higher Education

- **A public university** in multiple complex mass tort and constitutional rights cases. Skadden led the client's litigation defense, negotiated a joint resolution with more than 300 plaintiffs and negotiated the settlement of more than 100 individual claims.

Professional Sports

- **National Football League** in securing the dismissal of a federal personal injury class action filed by 10 retired NFL players, including Hall of Fame defensive end Richard Dent, who alleged that the NFL and its teams improperly provided prescription painkillers and anti-inflammatories to players through team physicians and trainers in order to push players back to the field, to the detriment of their long-term health.
- **National Hockey League** as lead MDL counsel in a proceeding concerning player concussion claims, including the defeat of an all-player class certification motion seeking medical monitoring and other relief and the resolution of individual personal injury claims asserted by former players.