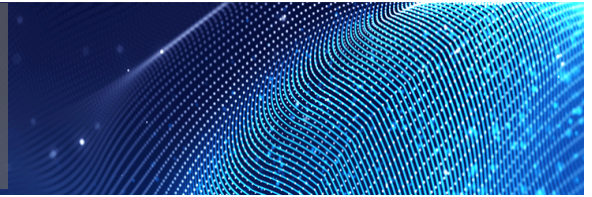


## product liability

Promoting and defending the design and performance of your products and personnel



High-exposure product liability and tort matters present complex challenges, not only in the courtroom, but also to a company's reputation, business, and day-to-day operations. At Thompson Coburn, we partner with you to protect what matters – your brand, your products, and the hard-working people that make up your company.

Whether catastrophic personal injury claims, mass or toxic torts, class actions, complex pattern or multidistrict litigation, regulatory matters, recalls, or attorney general investigations, we have the skills and resources to handle the toughest product liability and tort challenges our clients face.

Our attorneys are regularly relied upon as national and regional counsel in high-stakes product liability and tort litigation. We have a track record of success in defending clients nationwide, with experience spanning state and federal courts coast to coast. We have represented clients headquartered throughout North America, Europe, and Asia.

Our comprehensive approach helps clients assess and mitigate risks at every phase – from product development to claims evaluation, to pre-litigation counseling and alternative dispute resolution, to trials and appeals. We collaborate with clients and subject matter experts to fully understand the products and circumstances at issue, allowing us to craft strong, tailored strategies that help our clients meet their goals, promote and defend their products, and protect their business interests.

At Thompson Coburn, we do not just defend your products – we safeguard your reputation and help protect your company's future.

Managing the complexities of litigation, especially documentation and electronic data, is another area where we excel. Our team integrates seamlessly with in-house electronic systems management teams to handle data efficiently, ensuring precision and cost-effectiveness.

### wide industry experience

Our product liability and tort representation covers a veritable "A to Z" of industries, litigation, and products:

A	Automobiles, Asbestos, ATVs, Aircraft, Air compressors, Airbags, Alarm systems
B	Baby formula, Baycol MDL, Boats, Brush chippers, Birth control pills
C	Construction equipment, Conveyors, Chemicals, Candles
D	Doors, Dicamba herbicide, Diabetes drugs

E	Exercise equipment, Electrical equipment, Earplugs, Exhaust manifolds
F	Fire suppression systems, Forklifts, Furniture, Food processors, Firearms
G	Genetically modified rice, Gasoline, Grinding wheel class action, Golf carts
H	Heavy machinery, Hay balers, Horsepower class action, Hemophilia/AIDs MDL
I	Industrial equipment, Industrial chemicals
J	Jet boats, Jet fuel
K	Kitchenware
L	Lithium-ion batteries, Lawnmowers, Lighters, Ladders
M	Motorcycles, Medical devices, Motors, MTBE MDL
N	Nail guns
O	Opioids, Oxygen concentrators
P	Pharmaceuticals, PFAS, Personal Watercraft, Pesticides, Power Tools, Pneumatics, Playgrounds
Q	Quick-Oil Change Valvoline Class Action
R	Railroad, Roundup
S	Seat belts, Skid steer loaders, String trimmers, Scooters, Scaffolds
T	Table saws, Trucks, Tractors, Tires, Tobacco
U	Uranium hexafluoride
V	Video surveillance equipment, Vaginal mesh implants
W	Weight loss drugs
X	X-ray machine components, Xarelto MDL
Y	Yard and lawn care equipment
Z	Zoloft, Zantac

### automotive products

We regularly represent clients in the automotive industry. This includes defending some of the world's largest automobile and motorcycle manufacturers in catastrophic injury and wrongful death cases that allege defects in vehicle components and crashworthiness. We have also represented manufacturers and distributors of component parts and specialty tool manufacturers, along with automotive service companies. In addition to defending automotive clients in high-stakes litigation, we have provided guidance on regulatory and recall matters involving NHTSA.

## consumer and recreational products

Our product liability lawyers have defended clients against defect, warnings, and warranty claims regarding a variety of consumer and recreational products. Industry leaders turn to us to handle high-stakes and complex commercial, personal injury, class action, mass tort, and cost recovery lawsuits involving consumer products. These have involved a number of multibillion-dollar claims in federal and state courts across the United States.

We also provide strategic guidance on product development, warnings, and instructions, and assist clients with product notices and recalls, including communicating and coordinating voluntarily recalls with the CPSC.

## mass and toxic tort litigation

Our attorneys have served as national counsel in thousands of mass tort lawsuits, taking a variety of cases to verdict before juries throughout the U.S. In addition to our nationwide asbestos docket, we have a long history representing agribusiness, chemical manufacturers, tobacco companies, food companies, and railroads in mass tort and toxic tort matters. Our attorneys have also regularly defended clients in litigation involving PFAS (and other “forever chemicals”), baby formula, opioids, benzene, and herbicides (e.g., Roundup and Paraquat). [Read more.](#)

## pharmaceutical and medical devices

Our team defends some of the nation’s largest drug and medical device manufacturers in personal injury cases, class actions and multidistrict litigation (MDL) across the country, including on numerous national trial teams and in some of the most challenging state and federal venues. [Read more.](#)

## asbestos

When faced with asbestos-related injury allegations, clients including automobile manufacturers, power sports equipment manufacturers, agricultural and construction equipment manufacturers, railroads and others know they can rely on us. Our deep experience and knowledge of their industries allows us to craft bold litigation strategies. [Read more.](#)

## experience

### trial results

#### Automobile/Design Defect/Crashworthiness (Missouri State Court, St. Louis County)

- Plaintiffs alleged that the occupant safety system (airbag, seat belt, and front crash sensors) in the subject vehicle failed to operate systematically in an automobile crash, resulting in permanent quadriplegic injury. Plaintiffs asked the jury for \$30 million.
- The jury returned in a defense verdict, which was recognized by *Missouri Lawyers Media* as the No. 3 defense win in Missouri for 2023.

#### Automobile/Manufacturing Defect (Missouri State Court, St. Louis County)

- Defense verdict following a two-week trial on manufacturing defect claims alleging a vehicle’s exhaust system allowed carbon monoxide to enter the passenger compartment resulting in elevated carboxyhemoglobin and claimed significant and debilitating long-term neurological deficits.

#### Toxic Tort/Herbicide (Missouri State Court, St. Louis County)

- Plaintiff alleged his non-Hodgkin’s lymphoma was caused by herbicide exposure. The court directed a verdict in our client’s favor based on Plaintiff’s causation expert being unable to opine regarding specific causation – that the alleged exposure actually caused or contributed to cause Plaintiff’s cancer.

#### Tobacco/Class Action (Missouri State Court, City of St. Louis)

- In this class action seeking \$1.5 billion in damages, plaintiffs alleged that a cigarette manufacturer deceived some 400,000 Missouri smokers about light cigarettes. After 30 minutes of deliberation, a trial that lasted 39 days ended with a total defense verdict.

#### Personal Watercraft/Design Defect/Failure to Warn (California State Court, San Diego)

- Plaintiffs filed a wrongful death action against the manufacturer and designer of a personal watercraft arising out of an accident on the Colorado River in Arizona after the personal watercraft collided with another boat. The plaintiffs’ theory of the accident was that the craft was improperly designed because it lacked a braking mechanism and/or off throttle steering device to allow the operator to steer the craft after releasing the throttle. The operator of the craft, who owned a business, was claimed to have been earning approximately \$18 million a year at the time of the accident. Plaintiffs sought economic damages of \$200+ million as well as punitive and other damages.

- The first trial ended in a hung jury after a three-month trial. In the retrial and after years of discovery (which included more than 50 depositions of witnesses from across the United States, Japan and Canada), the jury returned a defense verdict for TC's clients.

#### **Personal Watercraft/Design Defect/Failure to Warn (U.S. District Court for the Middle District of Georgia)**

- Plaintiffs filed a wrongful death action against the manufacturer and distributor of a personal watercraft after their son, who was floating on a raft when he was struck by a personal watercraft, died. The 14-year-old operator of the craft claimed that he was unable to steer the personal watercraft once he released the throttle. The plaintiffs' theory of the accident was that the personal watercraft was improperly designed because it lacked a device to allow the operator to steer the craft after releasing the throttle.
- The jury returned a defense verdict for TC's clients.

#### **Mass Torts/Pharmaceutical (Missouri State Court, City of St. Louis)**

- TC joined as co-counsel with a pharmaceutical company's national counsel in obtaining a defense verdict on the first of several trials over birth defects claimed to have been caused by the use of an anti-depressant medication.

#### **Nail Gun/Design Defect (Missouri State Court, Jefferson County)**

- Plaintiff, who suffered a serious injury from a nail that was embedded into his knee, filed this action against the manufacturer of a pneumatic nail gun alleging negligence and strict liability for claimed defective design of the nail gun.
- The jury returned a defense verdict for TC's client.

#### **Smoke Detector/Alarm System/Fire (Missouri State Court, St. Louis County)**

- Plaintiff, who suffered serious personal injury in a home fire, filed this action against a manufacturer and distributor of a smoke detector and alarm system claiming negligence in the installation and maintenance of the alarm system, and breach of contract for failure to monitor the system.
- The jury returned a defense verdict for TC's client. The Missouri Court of Appeals affirmed the verdict.

#### **Utility Vehicle/Design Defect/Failure to Warn (Texas State Court, Corpus Christi)**

- Plaintiff sued the designer, manufacturer and distributor of a utility vehicle after supposedly climbing onto the vehicle's cargo bed and then falling out and getting injured when the bed allegedly tilted. Plaintiff alleged that the vehicle was defective because it did not have an automatic slam latch and failed to warn of the claimed hazards involved. He sought \$6.5 million in lost earnings plus an equal amount for non-economic damages.
- The jury returned a defense verdict for TC's clients.

#### **Personal Watercraft/Design Defect (Washington State Court, Tacoma)**

- Plaintiffs sued the distributor of a personal watercraft after an explosion during operation of the craft. The personal watercraft had been subject to two-fuel related recalls, both of which were admitted into evidence.
- Plaintiff's counsel asked the jury for \$2 million in damages. The jury returned a defense verdict for TC's client.

#### **Mass Tort/Tobacco (West Virginia State Court, Kanawha County)**

- TC obtained a defense verdict for a cigarette manufacturer in a mass consolidation of more than 1,000 individual personal injury cases.

#### **Class Action/Tobacco (Missouri State Court, City of St. Louis)**

- TC obtained a defense verdict for a cigarette manufacturer in a lawsuit brought by Missouri hospitals seeking to recover costs of treating smokers.

#### **Class Action/Tobacco (West Virginia State Court, Ohio County)**

- TC obtained a defense verdict for a cigarette manufacturer in the first medical monitoring class action tried against members of the tobacco industry.

Represented a Fortune 500 equipment manufacturer in thousands of repetitive motion cases nationwide. After we won the first two jury trials, the remainder of the cases resolved favorably.

TC successfully defended our client in the longest jury trial in American history, a 65-plaintiff product liability/toxic tort case that was tried in notoriously plaintiff-friendly St. Clair County, Illinois.

Additionally, we successfully defended our client in one of the largest cases in American jurisprudence, a suit brought by the United States against the tobacco industry seeking \$280 billion in damages.

## appellate results

### ATV/Design Defect/Failure to Warn (Missouri Court of Appeals, Western District)

- The Missouri Court of Appeals affirmed the trial court's exclusion of Plaintiff's expert and award of summary judgment in favor of our client, issuing the first published opinion in Missouri addressing exclusion of an expert in a product liability case under Missouri's amended expert statute.

### Pneumatic Stapler/Design Defect/Failure to Warn (Missouri Court of Appeals, Eastern District)

- Plaintiff sued a tool manufacturer after a staple gun fired and struck his eye, alleging negligent design and negligent failure to warn.
- A jury's \$11 million verdict against the company was successfully appealed and reversed at the Missouri Court of Appeals, with the case being remanded for a new trial. The appellate court ruled that the trial court should have granted a mistrial because plaintiff's counsel repeatedly referred to the defendant as a "billion-dollar company" in violation of a trial court order.

### Automobile/Product Defect (Missouri Court of Appeals, Eastern District)

- Plaintiff sued an automotive manufacturer claiming negligence and strict liability arising out of a rollover crash. We successfully argued to the Court of Appeals that the trial court properly limited plaintiff's proffer of claimed similar incidents in an attempt to establish the client's knowledge of the alleged defect. The defense verdict was affirmed in favor of the vehicle manufacturer.

### Toxic Tort/Herbicide (Missouri Court of Appeals, Eastern District)

- Plaintiff sued the maker of an herbicide alleging the product caused his non-Hodgkin's lymphoma and that the company concealed the risks from the public.
- After a defense verdict in St. Louis County Circuit Court, the plaintiff appealed. The Missouri Court of Appeals affirmed the verdict in the company's favor, finding that the lower court did not err in its decisions to exclude a witness who was not a qualified expert and in not granting a mistrial based on a comment during opening statements.

### Press Brake/Design Defect (U.S. Court of Appeals for the Eighth Circuit)

- Eighth Circuit affirmed federal district court's exclusion of Plaintiff's liability expert based on a finding that the expert's opinions were unreliable and affirmed summary judgment in favor of TC's client.

### Motorcycle/Manufacturing Defect/Failure to Warn (U.S. Court of Appeals for the Eleventh Circuit)

- Eleventh Circuit affirmed federal district court's exclusion of Plaintiff's liability expert, agreeing that the expert's opinions were unreliable and affirming judgment in favor of TC's client.

## early resolution through dispositive motions

### Automotive Specialty Tool/Design Defect/Failure to Warn (Missouri State Court, St. Louis County)

- Plaintiffs sued an auto manufacturer over design defect and failure to warn product liability claims related to a "tensioning tool" used to service a vehicle, alleging over \$3 million in compensatory damages and a claim for punitive damages.
- After more than four years of litigation and just weeks before a scheduled jury trial, TC secured a victory when a judge excluded the plaintiffs' liability expert and granted summary judgment for defendants.

### ATV/Design Defect/Failure to Warn (Missouri State Court, Saline County)

- Plaintiff alleged a design defect in an ATV caused a sudden acceleration and crash. The trial court granted our client's motion to exclude Plaintiff's liability expert and motion for summary judgment.

### Table Saw/Design Defect/Failure to Warn (U.S. District Court for the Eastern District of Missouri)

- Plaintiff alleged design defect and failure to warn claims after sustaining injuries while using a table saw our client designed and manufactured. Plaintiff's expert attempted to support these claims by proposing an alternative design. We moved to exclude the expert's opinions based on his failure to perform any testing to support the alternative design proposed. The federal district court excluded the expert and granted summary judgment in our client's favor.

#### **Press Brake/Design Defect/Failure to Warn (U.S. District Court for the Eastern District of Missouri)**

- Plaintiff alleged design defect and failure to warn claims after his fingers were crushed by a press brake our client designed and manufactured. The district court granted our motion to exclude Plaintiff's liability expert based on his lack of qualifications. Without the expert, Plaintiff could not prove his claims, and the district court granted our client's motion for summary judgment.

#### **Press Brake/Design Defect (U.S. District Court for the Eastern District of Missouri)**

- Plaintiff alleged design defect claims arising from a press brake incident that resulted in an amputation injury. The district court granted our motion to exclude Plaintiff's liability expert based on his opinions being unreliable, including for a lack of testing. The Court granted our client's motion for summary judgment because, without an expert, Plaintiff could not establish defect in the product.

#### **Candle/Design Defect/Manufacturing Defect/Failure to Warn (U.S. District Court for the Southern District of New York)**

- Plaintiff alleged that a mosquito-repelling candle exploded and caused him burn injuries. After Plaintiff's liability expert effectively conceded the lack of any material scientific basis for his opinions regarding defect in the candle, we moved to exclude the expert and for summary judgment. The district court granted both motions. Additionally, the district court agreed that Plaintiff's state law warnings claim was preempted by FIFRA.

#### **Motorcycle/Manufacturing Defect/Failure to Warn Product (U.S. District Court for the Northern District of Georgia)**

- Plaintiff sued the manufacturer and distributor of a motorcycle claiming he was injured due to a manufacturing defect with the voltage regulator. The manufacturer had issued a recall that a defective voltage regulator in the motorcycle model could result in engine stalls during operation. After getting the recall in the mail, the plaintiff filed suit alleging that the condition identified in the recall was what caused his accident, resulting in more than \$2 million in medical expenses.
- After extensive discovery, testing and expert analysis, our *Daubert* motions and motion for summary judgment were granted.

#### **Personal Watercraft/Design Defect/Failure to Warn (U.S. District Court for the District of South Carolina)**

- Plaintiff sued the distributor of a personal watercraft claiming she was injured after falling off the back end of the craft. In addition to strict liability claims, the plaintiff alleged failure to warn despite that she had not read the warning on the craft and was not wearing protective clothing. After excluding the plaintiff's expert opinion on the issue of warnings, the Court granted summary judgment on all issues.

#### **Diesel Truck Exhaust System/Class Action (U.S. District Court of South Carolina)**

- Plaintiff filed a nationwide class action alleging exhaust system defects in diesel trucks. After more than two years of extensive discovery, the plaintiffs moved to certify the class. The court denied certification finding that the vehicle manufacturer had proven that the plaintiffs had not identified any common defect in the trucks as opposed to common vehicle systems. The case was later dismissed.

#### **Airbags/Class Action (U.S. District Court for the Eastern District of Michigan)**

- Plaintiff filed a nationwide class action alleging failure to timely recall vehicles having defective occupant restraint control modules that could cause inadvertent airbag deployment. The court granted the vehicle manufacturer's motion to dismiss for lack of subject matter jurisdiction, rejecting the notion that diminished value can result from a delayed repair. The dismissal was affirmed on appeal by the Sixth Circuit.

#### **Motorcycles/Class Action (U.S. District Court for the Northern District of Illinois)**

- Plaintiff filed a nationwide class action against the manufacturer and distributor of motorcycles asserting violations of the Federal Odometer Act. The plaintiff claimed that the odometers in each of the subject motorcycle models intentionally overstated the actual mileage of the motorcycle by up to 10 percent. The plaintiff sought actual damages, statutory damages, treble damages, attorneys' fees, costs, and punitive damages.
- After certifying a class, the court later granted our motion for summary judgment on all counts.

#### **Alert System/Wrongful Death (Missouri State Court, St. Louis County)**

- Plaintiff filed a wrongful death action against the manufacturer of a wander alert system being used at a nursing home claiming that as a result of defective design and negligent installation, an occupant was able to exit a nursing home and suffer injuries from a fall.
- We obtained a summary judgment on all counts.

#### **Automatic Doors/Design Defect/ Negligent Maintenance (Missouri State Court, Boone County)**

- Plaintiffs filed this action against a manufacturer of automatic doors alleging that the doors closed on two customers, knocking them to the ground and causing injuries. Plaintiffs claimed that the doors were defectively designed for failing to have an adequate fail-safe to prevent them from closing on someone in the threshold, and they also alleged negligent maintenance.
- We obtained a summary judgment on all counts for this matter and two related cases alleging the same allegations with the automatic doors.

#### **Automatic Doors/Design Defect (Illinois State Court, Williamson County)**

- Plaintiff filed this action against a manufacturer of automatic doors alleging that a swinging door closed on her, knocking her to the ground and causing injuries. Plaintiff sued the general contractor who installed the door, and the general contractor brought in manufacturer of the door, seeking contribution and indemnity.
- We obtained a summary judgment on all counts for the door manufacturer.

#### **Laser Guided Vehicle/Wrongful Death (U.S. District Court for the District of Kansas)**

- Plaintiff filed this action against the manufacturer of a laser guided electronic warehouse pallet mover. Plaintiff alleged that her husband was crushed by the vehicle after he fell in its path of travel. Plaintiff's liability theory was that the vehicle was defectively designed because it failed to adequately detect objects and persons while moving.
- We obtained a summary judgment on all counts.

#### **Pesticide/Design Defect/Manufacturing Defect/Failure to Warn (U.S. District Court for the District of Arizona)**

- Plaintiff filed this action against the manufacturer of a liquid pesticide alleging the canister leaked during application causing her to fall and shatter her leg.
- We obtained a summary judgment on all counts.

#### **Pesticide/Failure to Warn (Alabama State Court, Clarke County)**

- Plaintiff filed this action against the manufacturer of a pesticide alleging he suffered severe respiratory and other injuries caused by exposure to the pesticide. Plaintiff alleged that the labeling was inadequate in that it failed to warn him of the risks of exposure and failed to instruct him on how to avoid those risks.
- We obtained a summary judgment on all counts based on preemption under the Federal Insecticide, Fungicide, and Rodenticide Act.

#### **Pesticide/Design Defect (U.S. District Court for the Eastern District of New York)**

- Plaintiff filed this action against the manufacturer of a pesticide alleging it caused an explosion and fire in her apartment, resulting in severe burn and other injuries. Plaintiff alleged that the product was defectively designed because it contained a flammable propellant.
- We obtained a summary judgment on all claims.

#### **Pesticide/Design Defect/Failure to Warn (U.S. District Court for South Carolina)**

- Plaintiff filed this action against the manufacturer of a pesticide alleging it caused a fire and explosion in her home. Plaintiff alleged that the product was defectively designed because it contained a flammable propellant. Plaintiff further alleged that the labeling was inadequate because it failed to warn of the risk of explosion and failed to instruct on how to avoid that risk.
- We obtained summary judgment on all counts based on preemption under the Federal Insecticide, Fungicide, and Rodenticide Act and South Carolina law.

#### **Canopy System/Design Defect (Missouri State Court, Pulaski County)**

- Plaintiff filed this action against the designer of a convenience store canopy and drainage system alleging that as a result of defective/negligent design, water from the canopy was allowed to drain onto the areas where customers were filling cars, where it froze and created icy areas.
- Motion to dismiss granted as the canopy was not a "product" placed into commerce by our client.

#### **Patio Furniture/Design Defect/Manufacturing Defect (Illinois State Court, Cook County)**

- Plaintiff filed this action against the foreign manufacturer of an outdoor patio chair claiming it collapsed due to a structural defect. Plaintiff suffered serious back injuries as a result of her fall.





- We obtained dismissal of the manufacturer for lack of personal jurisdiction.

We have broad and extensive experience defending tort and product liability claims related to numerous products and industries.

We collaborate with our clients in every phase of the product – from product development through litigation – to promote and defend their products and safeguard their reputation.

We work with an established network of subject matter experts in multiple disciplines to fully understand and defend the products and circumstances at issue.

We have an established record of consistently obtaining significant victories in high-stakes cases in difficult jurisdictions.



professionals

**erik**

Erik P. Lewis

**benjamin**

Benjamin S. Harner

**carl**

Carl J. Pesce

**daniel**

Daniel C. Cox

**david**

David A. Dick

**dawn**

Dawn M. Wright

**jeremy**

Jeremy M. Hall

**kevin**

Kevin C. McGinley

**michael**

Michael B. Minton

**jack**

Jack R. Musgrave

**allison**

Allison N. Manger

**dave**

Dave A. Stratmann

**david**

David L. Coffman

**dean**

Dean L. Franklin

**lindsay**

Lindsay K. Gilmore

**manoo**

Manoo Mofidi

**misty**

Misty L. Edwards

**nicholas**

Nicholas J. Lamb

**steven**

Steven E. Garlock

**crystal**

Crystal M. Campbell

**john**

John E. Galvin

**sara**

Sara L. Chamberlain

**jeffrey**

Jeffrey A. Masson

**jason**

Jason A. Wheeler



**erick**

Erick E. VanDorn

**gordon**

Gordon L. Ankney

**jeffrey**

Jeffrey N. Brown

**jayci**

Jayci C. Costello

**suzanne**

Suzanne D. Galvin

**kurt**

Kurt E. Reitz

**carl**

Carl L. Rowley

**booker**

Booker T. Shaw

**laura**

Laura Ellis Kugler