

Mass Tort

Andrews Kurth lawyers know the business and legal ropes when it comes to managing mass tort litigation. For such actions, we have served as trial counsel, national counsel, regional counsel and local Texas counsel. Regardless of the role, the Andrews Kurth approach is to work as a team across disciplines and with other defense counsel around the country to ensure the most effective representation for our clients.

Focused Objectives

Our starting point in defending mass torts is to develop objectives for each client's unique situation. "One size fits all" does not apply in mass tort litigation. For example, a client may opt for a "no pay" stand against exorbitant settlement demands by trying cases to verdict. Our lawyers have the trial experience necessary to mount an aggressive yet cost-effective defense anywhere in the country. Some clients may choose to pursue issues on appeal, thereby developing case law and precedent that will help their industry in the future. Other clients adopt a settlement strategy, which requires experience in negotiating and structuring innovative settlement programs. Andrews Kurth lawyers develop and pursue the best strategy for clients to achieve their goals—in their companies and industries.

Strategic Planning

After objectives are set, our lawyers work closely with clients to plan strategically for risk containment. We have used a Trial Readiness Strategy in pharmaceutical, medical device and toxic tort litigation. The process follows these steps:

- Find and review all relevant company, industry and government documents
- Identify and interview key individuals
- Take preservation depositions of key employees
- Develop a simple story that makes the company and industry position easily understood by a jury

This strategy preserves accurate trial testimony as the foundation for experts' opinions and makes it tougher for plaintiffs' lawyers to distort our clients conduct and motives.

Scientific Defense

When preparing for mass tort litigation, Andrews Kurth lawyers thoroughly review all relevant scientific literature and data, identifying weaknesses on either side of the case and determine whether additional research is needed to fill any gaps in the defense.

We use our extensive network to retain the best and most cost-effective experts in the diverse fields associated with complex medical/scientific cases. We also employ state-of-the-art technology, such as video and computer graphics, enabling our experts to explain complex information so that it is readily understood by a jury.

Trial Preparation

Andrews Kurth's trial preparation doesn't stop with defense experts. We prepare to cross-examine our opponents' experts by reviewing and outlining any of their prior trial and deposition testimony. If their experts took contrary positions previously, our research can discover what we need to call their current testimony into question.

Our Trial Readiness Strategy allows us to achieve a level of preparation that can, of itself, persuade opposing counsel to seek alternative means of dispute resolution. We strive to be trial-ready and to lay a foundation for a successful appeal should an adverse trial result occur. We have ended litigation through the effective use of *Daubert/Frye* hearings and summary judgment motions.

Public Advocacy

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Andrews Kurth knows that winning in the “court of public opinion” often lays the foundation for winning at trial. Because plaintiffs often try to attack the public image and reputation of a defendant in mass tort litigation, some of our lawyers have taken special training to become adept at dealing with the media as a critical part of client representation. We also work extensively with media consultants and public relations representatives from our client’s company, as needed, to communicate our client’s message effectively.

Because plaintiffs frequently disseminate negative information even in instances where the defendant is not at fault, our experience in helping clients develop a comprehensive message is especially important in mass tort litigation. Crafting an effective message is equally important in individual cases.

Corporate Governance

Andrews Kurth lawyers are experienced in counseling corporate executives and boards in assessing risks and estimating costs of mass tort litigation. We offer guidance on:

- Developing financial reserves
- Preparing for stockholder and board of directors meetings
- Reporting litigation risks in SEC filings and other public disclosures
- Assuring compliance with Sarbanes-Oxley requirements

Strength in Technologies

Our technical sophistication extends beyond the knowledge of our clients’ products. Andrews Kurth makes a substantial and ongoing investment in computer hardware and software, along with maintaining a top-notch professional information technology team. We can handle client technical needs requiring management of voluminous information, including large deposition databases. We also develop extranet sites for information sharing with clients and other members of the defense team.

Cost Containment

We recognize that regardless of a particular client’s approach to the trial or settlement of its cases, each shares the common desire of containing litigation costs. Through the use of strategic planning, implementation of available technologies and a relentless drive to increase efficiencies, we strive to help our clients achieve their litigation cost containment goals. The benefits of these results are often multiplied in cases where we represent numerous defendants in a single matter.

A Comprehensive Approach

Mass tort litigation presents unique legal challenges that can adversely impact shareholder value. Given the stakes, the threat of litigation is no time for anything other than straight talk from trusted legal counsel with the right resources and expertise.