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ASBESTOS LITIGATION

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ASBESTOS LITIGATION



PIONEERS IN ENVIRONMENTAL & TOXIC TORT LITIGATION

Our innovative approach and litigation strength has placed Lewis Brisbois in the forefront of Environmental and Toxic Tort litigation actively participating and shaping case law in mass tort litigation, including the asbestos and chemical exposure arena.



In the 1980's, the firm established itself as a preeminent Environmental and Toxic Tort firm by trying the Stringfellow case to verdict and was significantly involved in cases focusing on BKK, OII, McColl, Love Canal and Diablo Nuclear facility, to name a few. In 1992, Lewis Brisbois tried the longest civil jury trial in Ventura County history to a defense verdict where it represented a developer of residential property sued for allegedly exposing the residents to harmful chemicals. In that case, the firm successfully eliminated the plaintiffs' personal injury claims prior to trial in the landmark appellate decision of *Cottle v. Superior Court*. The *Cottle* case is now the model followed by trial courts in California in massive tort cases and has been successfully used to avoid costly trials in a number of toxic tort matters. The firm went on to try the first sick building syndrome case to verdict (*Call v. Prudential*) in 1999. Our success continued into the mold litigation with our firm receiving a top defense verdict award from the Los Angeles Daily Journal for defending the first mold exposure case claiming personal injury damages in California (*Allison v. DelAmo HOA*, 2001).



Lewis Brisbois has also been one of the pioneers in asbestos litigation, representing asbestos defendants as early as 1980 in California state courts. The firm's asbestos practice has grown over the years to represent asbestos defendants in state and federal courts throughout the country acting as national coordinating counsel, regional counsel and local counsel in various jurisdictions. We have represented clients in virtually every sector of the asbestos industry including manufacturers, distributors, contractors and premises owners, shipyards, refineries, power plants, schools, home construction or remodel, industrial sites, and home and commercial garages and auto repair shops. Currently, 80% of our practice involves the chrysotile defense in representing friction defendants, asbestos fiber suppliers, boiler manufacturers and construction product defendants. Lewis Brisbois's success in California Courts in mass tort cases has transcended to a national level as demonstrated by the number of jury trial verdicts we have achieved on behalf of our asbestos clients in more than 14 venues across the country.



FAVORABLE VERDICTS AND RESULTS OBTAINED AT TRIAL

Lewis Brisbois has overseen asbestos litigation since the 1980's. During this time, the firm has handled thousands of asbestos cases. Our attorneys have been in trial against the various plaintiffs' firms through out the country. We have tried all varieties of asbestos matters from disputed asbestosis cases to the lung cancer/smoking cases to the more challenging living mesothelioma bystander/take home exposure cases with young plaintiffs. More recently, we have taken to trial the non-traditional mesothelioma



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cases such as peritoneal mesothelioma and testicular mesothelioma. Since 2003, we have gone to verdict no less than 25 times. However, we have also begun trial in hundreds of cases where they resolved, by way of a favorable settlement or dismissal, prior to verdict.

The following is a representative list of our trial results since 2003:

CASE	PLAINTIFF'S COUNSEL	JURISDICTION	DISPOSITION
Marion Kosich, as successor-in-interest to Joseph Kosich, Deceased, v. Asbestos Defendants, et al. - 2012		San Francisco	Case settled on 7th day of trial
Christine Nardo, Individually and as the Executrix of the Estate of Ralph Nardo v. Union Carbide, et al.- 2012	Goldberg, Persky & White	Cleveland, OH	Defense verdict
Benjamin v. Jerry's Paint Supply, et al. - 2012	Waters & Kraus LLP	Sacramento, CA	Dismissal in early stage of trial.
Anna M. Evans v. Union Carbide, et al. - 2011	Buck Law Firm and Heard, Robins, Cloud & Black	Athens, GA	Defense verdict
John Stevens vs. CertainTeed Corp. et al. - 2010	O'Brien Law Firm	St. Louis, Missouri	Settled during jury selection
McCauley v UCC - 2010	Sales, Tillman, George & Sipes	Louisville, KY	Defense verdict
Estate of Betty Zain v. 3M Company, et al. - 2010	James F. Humphreys & Associates Motley Rice	Kanawha County, WV	Settled after 1 week of trial
Evans v. Advocate Mines - 2010	Levin Simes Kaiser & Gornick	Los Angeles	Dismissed during voir dire
Worthley v. Asbestos Defendants - 2009	Brayton Purcell	San Francisco	Plaintiff's verdict
William Willis vs. 84 Lumber Co. et al. - 2009	Waters & Kraus LLP	Sangamon County, Illinois	Defense Verdict
Miceli v. Advocate Mines - 2009	Simon & Shingler	Alameda County	Defense verdict
Nunez v. Advocate Mines - 2009	Paul & Hanley	Los Angeles	Mistrial
Tomayo v. Advocate Mines - 2009	Waters, Kraus & Paul	Los Angeles	Dismissal after one week of trial
McGrail v. Advocate Mines - 2009	Paul Hanley	Los Angeles	Favorable settlement during the third day of jury deliberations
Riordan v. Advocate Mines - 2009	Brayton Purcell	San Francisco	Defense verdict

Standaert v. Advocate Mines - 2009	Brayton Purcell	San Francisco	Defense verdict
Bradbury v. Union Carbide Corporation - 2009	Deluca & Nemeroff	Charleston, WV	Favorable settlement following 2.5 weeks of trial
Toney v. Union Carbide Corporation - 2009	Motley Rice	Wheeling, WV	Favorable settlement following 2.5 weeks of trial
Clark v. Union Carbide et al - 2009	Motley Rice	Kanawha County, WV	Settled after 1 week of trial
Smith v. Peerless - 2009	Belluck & Fox	Buffalo	Settled at close of plaintiff's case after two weeks of trial
Ames et al v. Peerless - 2009	Weitz & Luxenberg	New York	Settled before opening statements
Goldstein v. Peerless - 2009	Belluck & Fox	New York	Settled during jury selection
Scala v. Peerless - 2009	Simon, Eddins & Greenstone	New York	Settled during jury selection
Barbera et al v. Kentile - 2009	Weitz & Luxenberg	New York	Settled during jury selection
Cohen et al v. Kentile - 2009	Weitz & Luxenberg	New York	Settled before opening statements
Collin v. Advocate Mines - 2009	Waters, Kraus & Paul	Sacramento	Settled after plaintiffs' expert testified
Miller v. Advocate Mines - 2009	Keller Fishback	Los Angeles	Settled during 3rd day of jury deliberations
Merkle v Advocate Mines - 2009	Kazan McClain	Alameda County	Settled after opening statements
Gutierrez/Borbon v Asbestos Defendants - 2009	Brayton Purcell	San Francisco	Defense verdict
Pound v. American Asbestos Co.- 2008	Paul & Hanley	Los Angeles	Defense verdict
Vanden Broeck v. Plant Insulation - 2008	Brayton Purcell	San Francisco	Plaintiff's verdict
Sandra v. Asbestos Defendants - 2008	Brayton Purcell	San Francisco	Plaintiff's verdict, resulted in 10% share of damages

Yancey v. Asbestos Defendants- 2008	Brayton Purcell	San Francisco	Plaintiff's verdict, resulted in 10% share of damages
L. Mudgett v. Asbestos Defendants - 2008	Paul & Hanley	San Francisco	Plaintiff's verdict
Yancey v. Asbestos Defendants - 2008	Paul & Hanley	San Francisco	Plaintiff's verdict
Lindquist v. Plant Insulation - 2008	Simon Eddins & Greenstone	Los Angeles	Dismissed during voir dire
Mahoney v. Advocate Mines - 2008	Baron & Budd	Los Angeles	Dismissed during voir dire
Plooy v. Advocate Mines - 2008	Kazan McCain	Alameda County	Settled before opening
Harris v. Plant - 2008	Paul & Hanley	San Francisco	Plaintiff's verdict
Hebert v. Peerless - 2007	Simon, Eddins & Greenstone	Brockton, Mass	Settled after the plaintiff rested 3.5 weeks into trial.
Dunn v. Kentile - 2007	Belluck & Fox	New York	Settled during jury selection
Young v. Kentile - 2007	Belluck & Fox	New York	Settled after jury selection
Merrill v Cooper Cameron - 2007	Simon Eddins & Greenstone	Los Angeles	Defense verdict
Black v Plant Insulation - 2007	Brayton Purcell	San Francisco	Non-suit
Boudreaux v. Advocate Mines - 2007	Baron & Budd	San Francisco	Settled after plaintiffs' medical experts testified
Shelton v Advocate Mines - 2006	Brayton Purcell	San Francisco	Defense verdict
Richards v. Floodbusters - 2006	John Reaves	San Francisco	Defense verdict
Henry v. Cooper Cameron.- 2006	Waters & Kraus	Los Angeles	Defense verdict
Quarles v. Advocate Mines - 2005	Brayton Purcell	San Francisco	Plaintiff's verdict
Kautz v. AC and S, Inc - 2005	Brayton Purcell	Orange County	Plaintiff's verdict - zero damages

Kirkland vs. AC and S, Inc., - 2005	Brayton Purcell	Orange County	Defense verdict
Hill v. Advocate Mines - 2005	Brayton Purcell	San Francisco	Defense verdict
Adamson v. Amchem, et al. - 2005	Brayton Purcell	San Francisco	Defense verdict
Miller v. Metropolitan Life - 2004	Hobin, Shingler & Simon	Alameda County	Defense verdict
Lopez v. A.W.Chesterton Co - 2003	Paul & Hanley	San Francisco	Plaintiff's Verdict

NATIONAL PRESENCE IN ASBESTOS LITIGATION

Our asbestos trial attorneys have been admitted to try cases in virtually every jurisdiction in the country. As a result, we have developed a relationship with the local benches, trial judges, settlement judges as well as our adversaries.

The many relationships we have with the plaintiffs firms, their trial counsel, settlement counsel and handling attorneys is particularly valuable to our clients. Our relationships with these individuals have assisted us in reaching early resolution of cases prior to incurring costs, entering stand-still agreements where appropriate, and engaging in informal discovery as necessary. From an administrative standpoint, in getting to know the plaintiffs' firms, we are able to obtain the necessary extensions to discovery, and get through the battles over witness and expert discovery in a more amicable and economical fashion.

Most significantly, we have cultivated good relationships with the individuals with authority at these firms. We have ready access to these individuals to negotiate settlements and often times to obtain dismissals. We have many of their cell numbers, and whether we contact these individuals or members of their firms, we get a call back immediately.

Lewis Brisbois also serves the role of National Coordinating Counsel for multiple clients in toxic tort cases, including asbestos and other toxic matters, such as benzene. As part of this its role as National Coordinating Counsel, Lewis Brisbois has solidified its presence in the toxic tort world, and especially in asbestos, as a firm with a national manifestation and reputation throughout the country.

SPECIALIZATION IN CUTTING-EDGE CAUSATION DEFENSES AT TRIAL

Our trial attorneys have in-depth knowledge of epidemiology, toxicology, risk assessment and air dispersion modeling and other disciplines bearing on key issues in trying complex toxic tort cases. Our attorneys work regularly with the most prestigious and scientific experts in the field. We have solid working relations with the most respected medical experts and leaders in virtually every medical specialty. We also regularly deal with cutting-edge products liability issues including product design, risk assessment, market share, advertising, product recalls and warnings. Our attorneys are experts in dealing with medical causation issues and have enjoyed repeated success in challenging "junk science" expert testimony regarding alleged exposure to or defects in a defendant's product. As a result, our attorneys work successfully with retained experts and effectively cross-examine opposing experts.

COST EFFECTIVE CASE MANAGEMENT

Our litigation experience and size allow us to easily adjust to the pressures of a large volume of cases with preferential trial settings and multi-track deposition schedules in multi-states commonly found in asbestos litigation. We provide each client with a defense suitable to its needs and unique circumstances. Therefore, we do not have a single approach for all asbestos cases, but instead evaluate and litigate the case based upon the facts presented by each case. We are aggressive in resolving cases, either by way of a voluntary dismissal or a motion for summary judgment, where there appears to be no product identification against our

client. Where there is potential exposure for our client, we attempt to resolve the case prior to engaging in significant discovery, if possible. If the case proceeds to trial, we take all measures to protect the client's interest in discovery and pre-trial motions to identify as many trial issues as possible and limit the plaintiffs' expert's testimony, when appropriate. As our trial list shows, we are not intimidated by the thought of trial and this fact is widely known throughout the country.

Our group ensures that information about the status of cases is readily accessible to our clients at all times. Each client is assigned to a select team of attorneys and paralegals to handle its account. Each case is assigned to one partner, associate and paralegal who will be familiar with the case and available by phone and email to respond to inquiries.

To the extent possible, our clients enter into joint retention agreements to share fees and costs associated with attending hearings and depositions. Many are amenable to jointly retained experts, where appropriate, in an effort to hold costs down.

TECHNOLOGY

Lewis Brisbois is equipped with cutting-edge technology to scan, store, retrieve and analyze voluminous data expeditiously and economically. With our state-of-the-art technology, we manage databases to store our extensive resources of medical and scientific literature, depositions and trial transcripts of key experts and product identification witnesses, and information pertaining to major job sites for our clients. Where appropriate, we develop an extranet accessible by our clients to allow them access to case-specific information. Once the case is ready for trial, the firm's technology and licensed software assures trial counsel, and their clients, of the best possible and most effective presentation of the evidence. The combination of experienced trial counsel coupled with cutting-edge technology has helped win over juries across the nation.

CLIENTS

The diversity of our asbestos practice is reflected in our clients, which range from individuals, partnerships and closely held corporations to multi-national companies. We provide representation to foreign and domestic manufacturing concerns as well as foreign and domestic insurance carriers. Whether it is a single case in a state or federal court, mass tort claims requiring national coordination or class action suits, in the field of asbestos litigation Lewis Brisbois provides strong, experienced and highly successful representation for its diverse client body.

We continue to defend clients who have different roles in the litigation, thus invoking different legal theories and strategies. These include:

- Manufacturers
- Distributors
- Retailers
- Contractors
- Premises Owner

The range of products we have experience with on asbestos cases are:

- Raw asbestos fiber
- Insulation products
- Joint compound and drywall
- Automotive and Aeronautical friction products
- Gaskets and packing
- Mastics/Adhesives
- Pumps
- Large equipment including engines and compressors
- Valves.

The sites at issue, and about which we have amassed a large library of evidence, include:

- Navy ships
- Shipyards
- Refineries
- Power plants
- Industrial and commercial sites
- Home construction and remodel
- Aerospace Industry
- Home and commercial garages and auto repair shops.

REPRESENTATIVE PUBLICATIONS AND PRESENTATIONS

Our asbestos attorneys are highly respected by the asbestos community and are often invited as presenters at national conferences across the country. They have also published articles in this area.

Publications

The Lawyer's Guide to Lead Paint, Asbestos and Chinese Drywall (2010) has been published by the American Bar Association.

"Analysis of the Texas Asbestos/Silica Litigation Reform Bill", *Columns Asbestos*, Vol. 5, No. 7, (May 2005), Harris Martin Publishing Co.

California Products Liability Law, Roy M. Brisbois, Lexis Law Publishing, (1999).

The Municipal Law Handbook, Chapter on Environmental Law, (1997).

Presentations

"The Role of Dose Assessment and Toxicology at Trial," Perrin Conference: Cutting-Edge Issues in Asbestos Litigation, February, 2010.

"Emerging Medical and Scientific Issues in Asbestos Litigation," The Asbestos Litigation Conference: Cutting-Edge Issues in Asbestos Litigation, 2010.

"Use of Medical Experts in Asbestos Litigation," The Asbestos Litigation Conference: A Comprehensive National Overview and Outlook, 2009.

"Premises Liability Litigation Update" for the Emerging Trends in Asbestos Litigation Conference, 2009.

Harris Martin Asbestos Allocation Conference, Putting on the Case at Trial, "Proof of Apportionment of Liability in Asbestos Cases," San Francisco, California.

APPELLATE EXPERTISE

The Lewis Brisbois asbestos team enjoys the support of the firm's appellate department which is composed of certified appellate specialists. The appellate department has obtained hundreds of published decisions for its clients on a wide array of matters, including asbestos and chemical exposure cases.

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FIRM OVERVIEW

Established in 1979, Lewis Brisbois Bisgaard & Smith LLP is a national, full-service law firm with nearly 900 attorneys and 30 offices, in 16 states and the District of Columbia. Our national practice is sophisticated, multi-faceted and well-versed in current legal trends, while our individual state practices provide vast resources and knowledge of procedural and legal nuances.

Lewis Brisbois offers legal practice in nearly 30 specialties, and a multitude of sub-specialties associated with each practice area. Our attorneys have broad knowledge, expertise, and sensitivity to their clients' unique needs. Through interaction among its practice groups, Lewis Brisbois provides a wide range of legal services to each client with a continuity of representation over multiple disciplines. We have built longstanding relationships with corporate and institutional clients based on our ability to provide comprehensive service on a national scale.

At Lewis Brisbois, diversity is an integral part of our firm culture and our daily life. We accomplish diversity not by committee or initiative, but through the true and committed practice of hiring the best people for the job and consistently rewarding excellence. The success of these policies is reflected in the fact that Lewis Brisbois has repeatedly received national recognition for its commitment to embracing diversity. Lewis Brisbois is committed to hiring and retaining a diverse group of talented lawyers and staff, and demonstrates that commitment through non-discriminatory hiring, retention and promotion policies. The diversity of the firm's client base is matched by the diversity of our attorneys. With offices from Los Angeles to New York, our attorneys reflect the communities in which they live. The firm's culture has fostered a diverse group of professionals committed to promoting the best interests of our clients, our communities and the legal profession. We are committed to supporting diversity through new and ongoing relationships with minority and women-owned businesses.

Lewis Brisbois is known for its commitment to principled advocacy, an unflinching work ethic, and unyielding recognition of our duty to provide the highest level of service to our clients, who choose us because we take the time to understand their business interests and philosophies. We have developed sophisticated proprietary risk evaluation and litigation management processes that many of our clients have incorporated into their business practices, and we help them manage and defend claims and litigation. As a result, they are avoiding and reducing losses that impact their bottom line. Our practice includes pre-suit counseling and problem solving based on a structured and accurate analysis of likely outcome. We know our clients' objectives are often best served by a pre-suit resolution, and we are often judged by the advice and counsel we provide toward that end. However, when trial is the answer and in the client's best interest, no law firm in this country understands and better executes a trial strategy than Lewis Brisbois. We are truly client driven and result oriented.

For more about Lewis Brisbois, please visit us at LewisBrisbois.com.



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