

Automotive and Transportation Class Action Defense Group



King & Spalding's Automotive and Transportation Class Action Defense Group combines our decades-long history of successfully defending companies in the automotive and transportation industry in tort and environmental litigation matters with our nationally recognized expertise in defeating class actions across various industry groups. Our firm's broad range of expertise in the area is further complemented by our extensive experience with NHTSA, CPSC, and EPA investigations and related regulatory issues.

Manufacturers and suppliers in the industry are facing an increased risk of class action litigation. The plaintiffs' bar is actively transforming claims about the failure to comply with regulatory and environmental requirements or the existence of alleged product defects (which might earlier have only triggered individual lawsuits) into the basis to plead that entire classes of consumers have suffered damages or economic losses that should be remedied through the class action process. Our Automotive and Transportation Class Action Defense Group is uniquely positioned to apply our battle-tested strategies for defeating class actions to the issues facing the industry today.

National Recognition

King & Spalding's class action and tort litigation practices are routinely recognized as among the best in the country. *U.S. News & World Report* recognized us as 2017 Law Firm of the Year for Mass Tort Litigation & Class Actions. *Legal 500* similarly ranks us among the top firms in the U.S. for product liability and mass tort defense: automotive/transport, noting our "impressive bench of trial lawyers" which "has acted as state, regional or national counsel to clients including Toyota, General Motors, Nissan." In 2015, *Law360* singled out our tort practice as a Practice Group of the Year and as a Product Liability All Star for having been named a practice group of the year in this category five times since the award was created in 2011. *Law360* also selected our national class action practice as a Practice Group of the Year in both 2011 and 2013, and named our entire litigation department to its inaugural list of Litigation Powerhouses, ranking it among the top 10 firms for litigation in the United States in 2016.

Our Class Action Practice

Our class action practice group includes lawyers from both our tort and business litigation teams. Over the past seven years, this group has successfully defended more than 250 class actions, involving numerous claims across many jurisdictions. Our class action clients include Daimler AG, General Motors, Toyota, Nissan, Halyard Health, Progressive Casualty Insurance, The Coca-Cola Company, Home Depot, Chevron, Equifax, Floor & Decor, GlaxoSmithKline, Kimberly-Clark, Purdue Pharma, RJ Reynolds, Allergan, Bass Pro Outdoor World, Tyson Foods, and Vanderbilt University. In addition to the specific automotive and transportation class-action matters described below, we have represented General Motors in class actions involving economic loss due to "side-saddle" fuel tanks on pick-up trucks, Nissan in class actions involving claims of diminution of resale value for cars with "unsmart airbags," General Motors in a putative class action involving the absence of rear seat shoulder belts, and General Motors in class actions involving claims of vehicle stalling.

U.S. News & World Report selected King & Spalding as "Law Firm of the Year" for Mass Tort Litigation/Class Actions in both 2017 and 2015

Law360 recognized King & Spalding as a "Litigation Powerhouse" in 2016

Named *Law360's* "Class Action Group of the Year" in 2013 and 2011



In 2018, *Law360* awarded King & Spalding with the Product Liability Group of the Year recognition for the fifth consecutive year

Our Automotive and Transportation Litigation Experience

Our firm currently serves as state, regional or national counsel for General Motors, Toyota, Nissan, and Kia in litigation programs involving a broad range of automotive product liability claims. Other automotive manufacturer clients represented by King & Spalding over the years include Daimler AG, Porsche, Ford, Mazda, Volkswagen, Subaru, Suzuki, Honda, CAMI Automotive Inc., General Motors of Canada, Freightliner, Navistar (International Harvester), and Nissan Diesel. Additional clients in the transportation sector include the world's largest shipping and logistics company and transportation companies, Allied Holdings, Freightliner, SABIC, and Wabash National Corporation. Our lawyers have tried dozens of automotive and transportation product-liability cases; defended attacks on virtually every aspect of automotive design; overturned eight- and nine-figure verdicts and punitive damages awards on appeal in multiple courts; challenged and fought government-initiated recalls in court; represented clients in congressional hearings; and fought against and, when necessary, defended the depositions of top corporate executives, including CEOs and board chairs.

What Sets Us Apart

Our litigation practice is distinguished by our deep bench of first-chair trial lawyers and our ability to try cases no matter how large the stakes. Our diverse team includes multiple fellows of the American College of Trial Lawyers, including Chilton Varner, a past President, and David Balsler, who heads our national class action practice group. In addition to our class action and tort litigation experience, our firm has expertise in the related substantive areas raised by automotive and transportation class litigation. Our regulatory practice includes several former high-ranking and nationally recognized NHTSA and EPA officials and other lawyers with significant experience in the traffic safety and environmental regulatory issues that often arise in automotive and transportation class action litigation.

Our Discovery Center has for twenty years used lower-cost lawyers and the latest technology for document review and production, resulting in seamless and cost-effective management of the significant ESI and document issues that can arise in class litigation. Our Discovery Center has extensive experience managing document review processes globally and in multiple languages. We have served as national e-discovery counsel for Toyota Motor Sales, U.S.A., Inc. in its unintended acceleration litigation, and as discovery counsel for General Motors, North America, Inc. in litigation related to various product recalls, product liability, and bankruptcy matters.

We have extensive experience working with expert witnesses essential to the defense of automotive and transportation litigation and class litigation generally. We also have one of the leading appellate practice groups in the country, which works with our trial teams to position the case strategically should an appeal prove necessary.

Recent Class Action Wins

Examples of recent wins in automotive and transportation class actions include:

- ***Complete Victory for Daimler AG and Mercedes-Benz USA in Multi-State Class Actions Seeking Hundreds of Millions Damages for “Economic Loss.”*** We recently defeated two proposed consumer class actions claiming that our client Daimler AG had defrauded tens of thousands Mercedes E-Class owners in California, Florida, Georgia, Texas, New Jersey, Illinois, and Virginia by failing to disclose alleged defects in their fuel systems. The lawsuits attempted to draft behind a then-pending NHTSA investigation into the alleged defects. In the Georgia case, *McCabe et al. v. Daimler*, we knocked out all the warranty claims as well as the putative California, Illinois and Florida classes with a motion to dismiss. After discovery, we won complete summary judgment as the remaining fraud and consumer protection claims. See *McCabe v. Daimler AG*, --F.Supp. 3d--, 2015 WL 10091635 (N.D. Ga. Aug. 20, 2015). That win set an important precedent and was featured by *Law360* in giving our team a Practice Group of the Year award. While *McCabe* was pending, another plaintiff filed a copy-cat class action under the New Jersey Consumer Fraud Act against Daimler in New Jersey state court. Plaintiff dismissed her claims after we removed the case and filed a motion to dismiss. *Barinova v. Daimler AG*, et al., 2:14-cv-07684 (D. N.J. April 21, 2015).



- **Defeated class certification for Indian automobile manufacturer Mahindra & Mahindra Ltd. in a putative nationwide class action filed by alleged automobile dealers.** The plaintiffs asserted claims for fraud, negligent misrepresentation, promissory estoppel, and violations of various state and federal automobile dealer laws arising out of the expiration of an agreement between Mahindra and its former U.S.-based distributor concerning the importation of light-diesel pickup trucks from India. After extensive discovery and briefing, we obtained an order denying the plaintiffs' motion for class certification.
- **Obtained a dismissal for Nissan Motor Corp. in U.S.A. in a putative nationwide class action involving alleged "economic loss" from passenger side air bags.** We obtained an order from the trial court dismissing the case for failure to state a claim and successfully defended the win on appeal.
- **Defeated an emergency "Park It Now" TRO for General Motors LLC relating to GM's ignition switch recall.** In a highly publicized early case, the plaintiff sought a mandatory injunction requiring GM to issue a notice to all owners of automobiles subject to the ignition switch recall to encourage owners not to use the vehicles. After extensive briefing and argument, we obtained an order denying the TRO.

Our Philosophy

From the outset of an engagement, we partner with our clients to jointly define the litigation and business goal and the plan to achieve it. In many cases, the goal is straight-forward: obtain an early dismissal or defeat class certification to turn what at the outset looks like a significant damages case into a manageable individual matter. In cases where early dismissal is less likely, we make a reasonable assessment based on the merits and, if trial is in the client's best interest, map out the strategy that combines advocacy and technical expertise to achieve the win. We implement efficient procedures for managing discovery, such as alternative staffing and lower cost production facilities. We also counsel our clients on the alternatives to litigation and deploy strategies to get to a negotiated resolution where appropriate. Our broad-based experience, coupled with our firm's full-service platform, afford us a unique perspective to proactively assist clients in avoiding potentially significant and costly class action litigation.

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