

## Toxic & Environmental Torts

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Successfully Navigating Complex Toxic and Environmental Torts cases

King & Spalding's tort lawyers defend, try, and resolve high-exposure, mission-critical toxic tort and mass tort cases. Over the past three decades, mass and toxic tort claims have escalated in complexity, intensity, and volume, costing American businesses billions along the way. Our lawyers handle these matters in court, in mediation, and in arbitration in some of the most dangerous venues in the country.

King & Spalding lawyers have successfully tried and resolved cases in state and federal courts throughout the United States, including in the most plaintiff-friendly jurisdictions. We have handled vast and overlapping discovery obligations, navigated thorny legal theories, tackled complex technical and scientific issues, defeated class certification, and managed difficult facts. We are nationally recognized, and our team has achieved favorable outcomes in the chemical, pulp and paper, agricultural, automotive, energy, quarrying and mining, power generation, tobacco, and many other industries.

Our understanding of the scientific, medical, and technical issues in toxic tort and mass tort cases is built on decades of practice, having presented and cross-examined hundreds of experts in diverse scientific disciplines. We know our opponents and maintain a library on experts.

King & Spalding named a "Litigation Powerhouse" by *Law360*.

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*U.S. News & World Report* named King & Spalding "Law Firm of the Year" in Mass Tort Litigation/Class Action for its Best Law Firms Survey.

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*Law360* has four times named King & Spalding its "Environmental Group of the Year."

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*Texas Lawyer* named King & Spalding "Environmental Litigation Department of the Year."

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*Petroleum Economist* named King & Spalding its Energy Advisory Firm of the Year.

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### Long-Standing Relationships

We have a network of local counsel, including trial-tested veterans in the most difficult, plaintiff-friendly jurisdictions in the country.

### Efficiency

We are client-driven and attuned to the business pressures large-scale mass tort and toxic tort cases cause. We believe in a lean, efficient team, and we continually work to use cost-efficient strategies.

### Complex Litigation Experience

We defend individual cases, class actions, mass joinders and multi-district litigation filed by workers, property owners, riparian owners, governmental entities, members of the public and product end users. In fact, every stage of toxic tort litigation — from the filing of the complaint through trial and appeals — presents opportunities to prevail or to advance the defense. Our trial lawyers are backed by strong special teams to address science, discovery issues, and appellate issues. They have a deep understanding of the science behind the products and industries and how to present technical information in a comprehensible way to juries, judges and, if necessary, the public. Our team has successfully faced many of the familiar plaintiffs’ experts in toxic tort cases and has extensive knowledge of frequently-asserted diseases. With partners skilled at managing large dockets, a team of nearly 100 lawyers in offices across the U.S. handling toxic tort cases, and a dedicated team and facility to handle complex discovery, we successfully and cost-effectively guide our clients through their most complicated cases from pretrial to trial and appeals.

### Trial

We have a deep bench of first-chair trial lawyers, and our willingness to go to trial brings strategic focus to the way we litigate; we are the kind of people you want as the “face of the company.”

### CONTACTS



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## Class Action

We have one of the most successful class action defense practices in the United States. We have achieved success in all facets of class litigation, defeating class certification in virtually every state and against every conceivable theory of relief. In the past seven years, we have represented clients in more than 250 class actions, the vast majority of which have been dismissed or effectively resolved at a relatively early stage and on terms favorable to our clients. We also have tried class cases in the most challenging venues in the United States, including California, Illinois, Louisiana, Texas and West Virginia—some of the nation’s most dangerous jurisdictions for class action defendants.

## Representative Matters

The following are examples of recent cases that demonstrate the breadth and depth of our practice.

- Representing **Chevron U.S.A. Inc.** in multiple lawsuits arising from a fire at Chevron U.S.A.’s Richmond, California Refinery. In one lawsuit, the City of Richmond claims that the fire and prior release events caused the City to suffer economic harm and environmental damage. The remaining 40+ lawsuits were brought by more than 30,000+ individually named persons who claim personal injuries, lost wages and/or property damage. Plaintiffs in both actions seek punitive damages.
- Representing **Shell Oil Company** in numerous groundwater contamination cases in California. Various cities, municipalities, and water purveyors have sued manufacturers and distributors of legacy agricultural chemicals alleging a trace ingredient in those agricultural chemicals (1,2,3-Trichloropropane) contaminated drinking water wells, requiring expensive treatment.
- Representing **Halliburton Energy Services, Inc.** in a class action and several mass tort actions in the Western District of Oklahoma. Hundreds of residents of Duncan, Oklahoma, claimed that historical missile motor case cleaning operations contaminated their groundwater with perchlorate. We defeated class certification, obtained dismissal of key legal claims, and successfully resolved most of the remaining claims.



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- Defending **ConocoPhillips Company** in several lawsuits filed by local governments in California state courts, individually and on behalf of the People of California, against numerous oil & gas and energy companies seeking monetary damages and abatement from the alleged impacts of climate change. The governments assert tort claims, including public nuisance, alleging that the defendants' production, promotion, sales, and marketing of fossil fuel products for use by consumers have led to global warming and sea level rise, which has impacted their communities.
- National Coordinating and Strategic Counsel for **Mine Safety Appliances (“MSA”)**, a global manufacturer of safety device equipment, in defense of its asbestos, silica, and coal dust exposure toxic tort dockets. By closely partnering with the client, we have implemented strategies aimed at developing the strongest defense possible for each case -- fully defending the company in trials and mediations while at the same time identifying cases for early dismissal or resolution through an early case assessment program. We have significantly reduced outside counsel and overall legal spend through standardization of discovery, dispositive motions and other pleadings.
- National litigation counsel for **Chevron U.S.A. Inc.** and **Chevron Corporation** in numerous MTBE cases in which municipalities, water purveyors, State AGs, and individuals claim that MTBE has contaminated public drinking water supplies in California, New York and many other states. Plaintiffs typically seek tens to hundreds of millions of dollars in treatment damages as well as punitive damages.
- Representing **The Dow Chemical Company** in lawsuits filed throughout the country in which plaintiffs allege that the chlorinated solvents trichloroethylene (“TCE”), perchloroethylene (“PCE”), and trichloroacetic acid (“TCA”) have contaminated water supply wells or interfered with projects such as redevelopment, and in related actions alleging personal injuries as a result of exposure to these solvents. The personal injury plaintiffs claim exposure in a variety of occupational settings, including industrial, manufacturing, and dry-cleaning operations. The cases involve traditional tort theories and complicated



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product identification and causation issues. They require extensive work with technical and medical experts.

- Representing **BASF Corporation (“BASF”)** in high-profile lawsuits brought by water purveyors Rio Linda Elverta Community Water District and Sacramento Suburban Water District against the federal government and manufacturers and suppliers of products alleged to contain hexavalent chromium—also known as chrome 6—which was the subject of the film “Erin Brokovich.” Plaintiffs allege that the detection of this chemical in their groundwater wells originated from products manufactured by defendants and used at nearby McClellan Air Force Base. The pleadings allege that the water purveyors will need \$1.4 billion to treat and remediate impacted wells. BASF, through King & Spalding, took a leading role in stipulating for a stay of the actions pending developments in related actions in the United States Court of Federal Claims.
- Representing **Shell Oil Company** in negotiating a settlement of a class action and related mass tort cases pending in Illinois federal and state (Madison County) courts. Plaintiffs assert property damage and medical monitoring claims as a result of benzene groundwater contamination allegedly resulting from historical refinery operations.
- Defending **Chevron U.S.A. Inc.** in putative class action, mass and individual tort claims in Louisiana involving several thousand residential and worker plaintiffs alleging exposure to naturally occurring radioactive materials (NORM) from oilfield pipe cleaning operations.
- Representing **Various Energy Companies** in defense of oilfield contamination allegedly arising out of historic upstream operations.
- Representing **Mercedes-Benz USA** and **Daimler AG** in the defense of a putative class action alleging that defects in the HVAC systems of virtually every vehicle model made by the company over the past fifteen years caused mold and offensive odors to develop. Plaintiffs seek injunctive relief and tens of millions in damages for repairs and other alleged economic losses. The case is currently stayed pending a ruling on defendants’ motion to dismiss.
- Represented **Floor & Decor** in several matters relating to the company’s sale of Chinese-made laminate flooring that allegedly emitted excessive levels of formaldehyde. In addition to defending individual personal injury claims, we defended the company in a putative nationwide class action seeking damages for claimed economic losses. We resolved all individual personal injury claims and obtained court approval of a settlement in the nationwide class action that resolved all economic loss claims for a small fraction of the claimed damages.
- Represented **The Coca-Cola Company** in class action suits filed in New Jersey, Florida, and Kansas by consumers claiming economic damages and personal injuries from the alleged formation of low levels of benzene in soft drinks.

- Represented **R.J. Reynolds Vapor Company (“RJRV”)** in a putative class action filed in the Northern District of California alleging that RJRV violated California’s consumer protection laws by failing to disclose that its Vuse e-cigarette product exposes users to harmful chemicals. The case was widely publicized and closely monitored by the industry, especially given that the U.S. Food & Drug Administration (“FDA”) deemed e-cigarettes subject to the Federal Food, Drug, and Cosmetic Act while the litigation was pending. We obtained a complete victory for RJRV in the trial court.
- Served as lead trial counsel for **Johnson & Johnson** in two trials alleging asbestos contamination in J&J’s Baby Powder. Plaintiffs claimed they developed mesothelioma as a result of exposure to this product and other allegedly asbestos-containing products. In one case, plaintiff dismissed J&J during voir dire for zero dollars. In the other, the jury returned a complete defense verdict in J&J’s favor.
- Represented **Toyota** to resolve economic loss claims stemming from the automaker’s incorporation of allegedly defective Takata airbag inflators into its vehicles. Plaintiffs’ claims—which spawned the largest automotive recall in U.S. history—concerned Takata’s use of inflators containing phase-stabilized ammonium nitrate (“PSAN”) propellant, which allegedly may lead to rupture and the expulsion of metal debris into the occupant compartment or otherwise affect the airbag’s deployment. A Florida federal court granted final approval to an innovative \$278.5 million nationwide class settlement negotiated by our team on behalf of Toyota. Three other automakers—Subaru, BMW, and Mazda—based their own settlements off of the agreement negotiated by Toyota.
- Represented **Columbian Chemicals** in mass joinder and class action lawsuits filed in West Virginia by hundreds of current and former neighbors of a carbon black facility, asserting claims for personal injuries, property damages, and medical monitoring as a result of exposure to alleged airborne emissions.
- Represented **Toyota** in successfully negotiating the resolution of a nationwide class action settlement involving several million class members alleging premature frame rusting on certain Toyota pick-ups.
- Represented **Union Carbide** in individual and class action litigation involving personal injury, wrongful death, medical monitoring and fraud claims arising from alleged exposure to vinyl chloride. The docket consisted of scores of cases in 19 states, and all cases have now been resolved or dismissed.