



# Product Liability



## OVERVIEW

Product liability litigation is on the rise, and clients faced with lawsuits alleging defective products expect both value and excellent results. Modrall Sperling works with clients to create effective strategies tailored to each of our clients, regardless of whether the case is a nationwide mass tort class action or a “one off” case in state court. Modrall Sperling’s lawyers have a notable depth of experience defending product liability matters and have a thorough understanding of the industries on which they focus.

Modrall Sperling is the go-to law firm in New Mexico for product liability litigation. Our product liability experience encompasses claims associated with products, the facilities that make them and the companies that sell them. We have been involved in the full array of product liability claims, defending cases involving asbestos, tires, chemical exposures, toxic torts, consumer products, food products, recreational equipment, pharmaceuticals and sophisticated medical devices.

Our lawyers have worked on behalf of product manufacturers and distributors in many of the nation’s most difficult jurisdictions, including those identified by the U.S. Chamber of Commerce as “judicial hellholes.” We serve as local, regional, and trial counsel to national and international companies. Although we are prepared to defend clients before juries and on appeal in federal and state court, we strive to find efficient, cost-effective solutions to our clients’ issues, including preventive counseling, settlement negotiation, and dispute resolution. When disputes cannot be resolved absent trial, our expertise allows us to mount aggressive and innovative defenses in the courtroom.

We understand that our clients do not strive to be in the business of product liability litigation. Accordingly, in order to provide the most effective and efficient defense possible, we commit ourselves to developing a full understanding of the design, manufacture, and use of the products we are asked to defend. This approach involves creating a relationship with our clients and remaining attuned to their businesses. Through these methods we achieve positive results for manufacturers.

## EXPERIENCE

Modrall Sperling has served as trial counsel for numerous manufacturers and distributors involved in products liability litigation.

- In a products liability case involving an alleged defect of a table saw, obtained a ruling from the Tenth Circuit Court of Appeals affirming the district court’s summary judgment for the defense. The summary judgment interpreted a series of corporate acquisitions. Plaintiff argued under New Mexico law that the corporations that had acquired the saw’s manufacturer were liable based on the product-line exception to the general rule of successor non-liability. Modrall Sperling established that Texas law applied and that defendants were not responsible for the design, manufacture, or marketing of the table saw at issue. Motions dealt with evolving issues of personal jurisdiction, choice of law, and important questions of successor liability.



## MODRALL SPERLING

- Represented a major grocery store chain in litigation involving food-borne illness. The litigation was unusually complex and procedurally challenging because cases were heard in both state and federal district courts in multiple states across the country.
- Counsel for a multi-national pacemaker manufacturer in multiple-plaintiff litigation involving the alleged improper sale and implantation of pacemakers that were alleged to not have been medically indicated for the recipients. Obtained a \$40.3 million reduction of the jury's compensatory and punitive damage awards, and ultimately had the adverse judgment vacated.
- Represented a recreational facility in two cases that stemmed from climbing wall accidents. Both cases ended in Summary Judgment for Modrall Sperling's client.
- Represented a large retailer in defending a claim of defective design of baby cribs.
- Counsel for a pharmaceutical manufacturer in multiple single plaintiff lawsuits, along with litigation brought on behalf of the New Mexico Attorney General, regarding the development and marketing of a popular diabetes medication.
- Obtained defense judgment, affirmed on appeal, on behalf of SSRI medication manufacturer holding that a brand-name drug manufacturer cannot be liable when it did not manufacture the generic version of the drug that allegedly harmed the plaintiff. The Court of Appeals decision reiterated that New Mexico follows the learned intermediary rule, which was significant because a federal district court judge sitting in New Mexico had previously predicted that New Mexico appellate courts, if faced with the question, would decline to continue applying the learned intermediary rule.
- Obtained judgment on behalf of spinal cord stimulator manufacturer in a case where the plaintiff alleged that the device malfunctions, causing permanent spinal cord injury.
- Currently serving as trial counsel for one of the leading manufacturers of vaginal mesh in ongoing multi-district litigation over alleged product defects.
- Represent two national auto parts manufacturers in litigation dealing with claims for asbestos exposure.
- Represent a national manufacturer of heavy equipment such as forklifts, mining equipment and backhoes in litigation dealing with claims for asbestos exposure.
- Represent a manufacturer in the heating and cooling industry regarding exposure to asbestos in gaskets.
- Represent a concrete pipe manufacturer in litigation regarding claims for asbestos exposure.
- Represent a manufacturer of Personal Protection Equipment (PPE) used in the painting industry for asbestos exposure claims.
- Represent tire manufacturers in wrongful death and serious injury cases involving passenger tires, truck tires and motorcycle tires.
- Obtained unappealed personal jurisdiction dismissals and summary judgments for multiple entities alleged to have manufactured defective table saw.

### KEY CONTACT

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### RELATED ATTORNEYS

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## RELATED INDUSTRIES

- Healthcare / Senior Care Facilities
- Manufacturing

## CASE STORIES

Absence of successor liability following series of acquisitions yields defense win