Product Liability & Tort Litigation

Lathrop GPM is committed to the protection of manufacturers and distributors in product liability and tort litigation. Our team has successfully litigated a broad range of cases in courts throughout the nation. Many of the cases we have handled resulted in significant changes in tort law. Our experience spans from relatively straightforward defense of single consumer suits to large numbers of claims in toxic and mass tort actions, and class actions. Our attorneys are also national counsel who both coordinate and try cases nationwide.

Utilizing legal practice management techniques, we are an effective and efficient legal partner. Our team applies best practices and fully employs the sophisticated technology in place at our firm and through our state-of-the-art vendors. We provide accurate scoping for a matter, effectively communicate across the team, manage the budget, and monitor our progress.

Our practice encompasses:

- Class Action
- Nuisance
- Personal/Premises Liability
- Transportation Liability
- Medical Malpractice
- Product Liability
- Professional Liability
- Subrogation
- Toxic and Mass Tort

Lathrop GPM attorneys emphasize learning the intricacies of our clients' products and services, and the details involved in the plaintiff's claim. We understand our clients' business operations and goals so that we can direct the outcome to coincide with financial and business goals, for a product line or overall operations.

Our litigators use the most modern technologies to defend our clients including trial presentation software, animations and recreations. We have a network of some of the best technical experts in the country to support our clients' defense. Our attorneys are highly experienced in attacking opposing experts and limiting or striking them in motion practice.

Lathrop GPM attorneys litigate cases involving many types of products and industries, including:

- Agricultural inputs, products and equipment
- Appliances
- Asbestos
- Automotive
- Building materials
- Chemicals
- Combustible gases
- Construction equipment
- Consumer goods
- Energy
- Food production
- Healthcare
- Lawn and garden equipment
- Religious institutions
- Retail and Hospitality
- Pesticides
- Transportation

Class Action

Lathrop GPM is recognized as one of the most respected class action defense firms in the country. We have been involved in class actions in state and federal courts throughout the United States. Our class-action practice group is supported by more than 180 litigators, which allows us to successfully handle all aspects of class-action litigation, including precertification dismissals and summary judgments, class discovery, class certification and de-certification, and claims administration.

Representative Experience

- Successfully represented waste management company in both a first and second class action matter filed in 2014. The second action was brought by different class representatives and alleged causes of action sounding in Negligence and Nuisance. It included subclasses including business owners, business employees and mortgage holders for all property located within 3 miles of the landfill and residents living in the second and third miles around the landfill. This matter was dismissed without prejudice, on motion of the Plaintiffs, in January 2016 following discovery, which was prior to class certification briefing.
- Successfully defended a national waste company against a class action lawsuit for a nuisance claim (odor) for one of their landfill locations. The entire court process was completed in 10 months and limited future litigation for the client.
- Successfully defended a chemical company against multiple class action lawsuits filed in both federal and state courts claiming exposure to chemicals used in fertilizer. Lathrop GPM secured one summary judgment, which effectively averted other trial efforts, and the remaining cases were voluntarily dismissed by the plaintiffs.
- Argued successfully in the Superior Court of the State of California on behalf of a national waste management company that plaintiff's motion for class certification for an odor nuisance case should be denied. Subsequently, the claims were settled for a minimal amount.
- Successfully defeated certification of a 10,000-home landfill odor class action suit in California. We later settled the case with a 6,000-home settlement class for $200 per home.
- Defended complex, multidistrict class action claims related to the aftermath of Hurricane Katrina in Louisiana, representing a major insurer regarding property and casualty claims in homeowners' policies. After the district court determined that a flood exclusion

was ambiguous, an appeal to the Fifth Circuit resulted in reversal, and the claims were excluded from coverage. This case was cited by *American Lawyer* as one of the biggest victories of the year.

- Handled a multibillion-dollar matter for multiple-defendant oil companies nationwide in multi-district litigation and more than 30 class actions on retail motor fuel sales. The matter included more than 100 defendants. We obtained successful dismissal for 10 defendants.
- Successfully resolved consumer class action case for health care technology company involving claims of violation of the Missouri Merchandising Practices Act and refunds of sales tax. We achieved refund of state sales tax, and our client paid no damages.
- Represented a major waste removal company in a class action toxic tort case involving allegations of groundwater contamination. Specifically, the plaintiffs alleged vinyl chloride found in private drinking water came from a landfill operated by this client. We prevailed on a motion to dismiss.

Nuisance

Lathrop GPM represents numerous clients in nuisance actions, from animal producers, agriculture companies, manufacturers, and waste removal companies. We have amassed a great deal of knowledge about all aspects of odor nuisance law through our work on behalf of our clients in these cases.

Lathrop GPM counsels clients in odor nuisance compliance matters, performs due diligence investigations, and represents clients in administrative and judicial proceedings before federal, state and local agencies.

We have extensive experience covering zoning; emergency reporting requirements; air, water, and toxic substances; and hazardous waste issues. We have successfully negotiated with agencies at the federal, state and local levels on complex land use and regulatory matters to reach satisfactory compliance and resolution of disputes for our clients.

Representative Experience

- Successfully defended one of the world's largest producers of pork in a nuisance case brought in Jackson County, Missouri. Plaintiffs were neighbors of one of our client's farms and claimed they were damaged by odor from the 80,000 hogs, waste lagoons, and application of manure-based fertilizer at the farm. They sought damages of $20 million, but we obtained a total defense verdict.
- Represented an agricultural and food production company in multiple cases involving 280 plaintiffs who brought claims regarding odor nuisance, emanating from hog farms across Missouri. The representation involved more than 10 individual cases and three cases that went to trial.
- Successfully represented waste management company in both a first and second class action matter filed in 2014. The second action was brought by different class representatives and alleged causes of action sounding in Negligence and Nuisance. It included subclasses including business owners, business employees and mortgage holders for all property located within 3 miles of the landfill and residents living in the second and third miles around the landfill. This matter was dismissed without prejudice, on motion of the Plaintiffs, in January 2016 following discovery, which was prior to class certification briefing.
- Represented a waste management company at trial in an odor nuisance case. The trial proceeded through jury selection and then settled the last of nine individual odor cases. Despite a jury that consisted of 2/3 percipient witnesses, the case was settled.
- Successfully settled a large class action on behalf of a large waste management company regarding a landfill odor class for $580,000 in Oklahoma.
- Settled a multi-site landfill pollution legal liability coverage matter in Arizona on behalf of a large waste management company.
- The firm is involved in the initial stages of active litigation defending waste management company in the Love Canal case, which has 1,200 toxic tort plaintiffs.
- Successfully negotiated on behalf of a waste management company for the reduction of a class size by 90%, using expert testimony and briefing techniques in Los Angeles, CA. We are preparing for class certification hearing in early 2016.

Personal / Premises Liability

In today's litigious society, businesses face serious out-of-pocket expenses and increased insurance premiums for even minor premises liability issues, which can result in a prolonged lawsuit. Our team aggressively defends the rights of those facing commercial premises liability claims and general litigation. Our clients include national restaurant chains, national hotel chains, religious institutions, and national travel center operations.

Representative Experience

- Successfully defended and secured dismissal of a national manufacturer and distributor of paints and solvents in five separate Texas lawsuits, each of which had over one hundred plaintiffs who alleged physical injuries based on exposure to and use of the company's products.
- Defended a chemicals company in a wrongful death case. The plaintiff, a former employee, alleged toxic exposure to chemicals while on the work site. We successfully negotiated a settlement with a significantly reduced payment outcome, following negotiations.
- Defended a large agriculture and food production client in a jury trial in which the plaintiff claimed personal injury and property damage due to odor exposure from the client's agriculture operations and hog farm. Lathrop GPM secured a defense verdict.
- Provided a cross-functional team to address a personal injury claim filed against a family-owned livestock operation. We obtained a confidential settlement following a successful mediation process. In addition, we secured coverage from the insurance company resulting in full coverage of settlement cost and all defense costs on behalf of our client.
- Defended a lift truck manufacturer against a personal injury claim by a plaintiff who had sustained an injury while operating one of the client's products. Lathrop GPM narrowed the plaintiff's claims through successful pretrial motions and ultimately resolved the matter in a confidential settlement favorable for the client.
- Represented client in a wrongful death claim against two parties for an auto accident. The firm was able to demonstrate multiple sources of liability through extensive discovery that uncovered unsafe driving conditions in the truck that caused the fatal accident, fraudulent reporting on inspection reports, and lax inspection practices. The case received a substantial and favorable settlement

for our client.

- Successfully represented a major hotel chain against a wrongful death case alleging that the balcony was defective. The firm negotiated a favorable confidential settlement in a timely and efficient manner, which required outlining a complex and thorough legal argument in a sensitive, highly emotional setting.
- Obtained summary judgment in federal court in favor of a major beverage manufacturer in a premises liability claim asserted by a severely injured contractor. The decision was affirmed on appeal in the 8th Circuit Court of Appeals.

Transportation Liability

Lathrop GPM represents clients on a local, regional and national level in the transportation industry. Our clients include trucking, shipping, cargo, inter-modal and railroad companies, among others. Our team relies on their extensive experience and knowledge of the transportation industry, along with utilizing key experts and professionals to illustrate our position.

Representative Experience

- Represented a leading railroad company against a workplace injury claim under the Federal Employers Liability Act (FELA) by an employee alleging a back injury as a result of their employment responsibilities. The case was settled two days into trial for a fraction of the original request.
- After major flooding, a major transportation company was faced with multiple claims of alleged flood damage, with demands in excess of $10 million. We were able to have many of the claims dismissed on pre-emption grounds, and are defending the actions taken by our client to protect and preserve operations as they go to trial before the federal Surface and Transportation Board.
- Defending a national travel center operator against premises liability and loss of consortium claims by a wife and husband. The net jury verdict was 10 percent of the amount requested during plaintiffs' closing argument. We obtained a defense verdict for the loss of consortium claim.

Medical Malpractice

- Defended a local orthodontist against actions undertaken by two patients who were very aggressive on social media regarding the quality of care, along with coming to his office and harassing his patients. The firm filed suit against these patients and as a result, the patients apologized, took down social media posts, and paid a settlement to our client.
- Represented medical group in case alleging medical malpractice. Through research and depositions, learned that issues were caused by a medical device defect, then successfully pursued the device manufacturer as a third-party defendant and defeated dispositive motions asserting preemption defenses.
- Defended a medical negligence claim against a large health care system with claimed damages in excess of $8 million. We retained, prepared and presented nationally-renowned expert witnesses on behalf of the defense and conducted rigorous cross-examination of the opposing counsel's witness after in-depth discovery. We obtained an 11-1 verdict in favor of our client. After the trial, the judge granted a new trial for alleged juror misconduct. The firm briefed and argued successfully to the appellate court, which resulted in the judgment for our client being reinstated.

Product Liability

Our highly skilled product liability team includes experienced trial lawyers with the ability to strategize, litigate and win. We have the experience to evaluate product liability cases from the outset, to coordinate strategies with management and to provide excellent representation at a reasonable cost. We have the trial skills and the in-depth experience across a broad range of issues, such as class actions, e-discovery, product recalls, risk assessment and risk communication.

Representative Experience

- Defended a leading manufacturer of construction equipment against a product liability suit following a fatal accident involving our client's equipment. Lathrop GPM secured a defense verdict with no appeal and no required compensation by their client.

- Served as lead counsel for a power generation corporation facing product liability and breach of contract claims that could have had a significant impact on business operations. Lathrop GPM executed a successful Daubert challenge against the plaintiff's leading witness, removing that testimony, and filed a successful motion for summary judgment resulting in the dismissal all claims sought by the plaintiff, which originally totaled over $5 million.
- Investigated a product liability claim brought against our client, a manufacturing, trading, and investments company. We prepared the initial defense, and now serve as lead strategist to manage pending litigation.
- Obtained a pre-answer dismissal of all claims against an agriculture and specialty formulation and distribution company in a complex product liability case involving the allocation of liability in an alleged exposure to anhydrous ammonia.
- Defended a product liability claim concerning an electrical transformer designed and manufactured by our client. Through cross-examination of an expert witness and one of the client's mechanical engineers, the firm was able to successfully demonstrate that the client's transformer was not negligently designed or manufactured and that the failure of the transformer was due to installation error. After that testimony, and while still in the plaintiff's case-in-chief, the plaintiff and its insurance carrier reached a settlement that allowed our client to be dismissed without contributing to the settlement.
- Obtained a complete defense verdict in favor of an ambulance service sued for wrongful death. The plaintiffs demanded more than $4.5 million in damages and rejected an offer of $500,000 during the lengthy and complex jury trial.
- Defended a manufacturer in a historic product defect claim. Our client was the custom manufacturer of a large commercial machine that caused an injury 60 years after the machine was built and after it had been sold to several different companies. We obtained a successful resolution prior to trial and favorable result for client.
- Successfully resolved a significant national product liability claim involving agricultural chemicals. The plaintiff alleged the aerial application of the chemical product killed thousands of acres of farmland. The matter settled pre-trial.
- Represented a major defense contractor in a lawsuit related to defective equipment provided for use in ammunition manufacturing. We obtained dismissal on terms favorable to our client.

- Won a jury trial involving a heat exchanger for an ethanol plant. The plaintiff claimed damages were due to the malfunctioning heat exchanger. We proved the exchanger had been incorrectly installed and had been damaged by fire.
- Settled a matter arising out of an accident involving a fire truck. The plaintiffs alleged the lights from an emergency lighting equipment manufacturer did not comply with applicable state regulations and may have caused or contributed to cause the accident.

Professional Liability

Our team includes lawyers practicing across the country with extensive experience in the defense of professionals and companies. Our clients include professionals such as health care providers, architects, engineers, dentists, accountants, and other key company personnel.

Subrogation

Our subrogation team, in collaboration with a network of screened experts and consultants, offers aggressive representation of our clients' coverage and claims, along with. The subrogation team is backed by lawyers in our environmental law, construction defects, bankruptcy, class action litigation and other practice teams. They are enlisted to assist on subrogation cases as part of the litigation team or on a consulting basis.

Representative Experience

- Obtained jury verdict of more than $3.2 million in federal court in Washington state for loss arising out of a fire that destroyed a warehouse. The amount recovered represented more than 98% of the insurance client's total indemnity payments.
- Recovered more than $1.4 million through pursuing subrogation on behalf of a national insurance company. This was a multi-defendant case that arose out of a fire that severely damaged an historic building on the Pearl Street Mall in downtown Boulder, Colorado.
- Recovered $1.57 million against a loss control survey company while representing an insurance company following a fire in

Georgia. The carrier received an inaccurate loss control survey causing it to remain at risk which otherwise did not meet the client's underwriting guidelines.

- Represented an insurance company and received a $3.3 million verdict, with more than 98% of the total indemnity payments covered following a fire that destroyed a cold storage facility.
- Recovered 100% of the indemnity payments totaling $1.8 million for an insurance company following a fire that destroyed an agricultural facility in eastern Colorado.
- Represented a national insurance carrier in a fire subrogation case involving a fire that started in a condo and spread to surrounding units. We received a total defense verdict on behalf of our client.