



Product Liability

2023



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Product Liability

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INTRODUCTION

Product liability remains a key concern for companies and their directors and officers (D&Os). Faulty or dangerous products that harm consumers can lead to costly lawsuits and reputational damage for organisations. On a personal level, D&Os can also be held to account and found liable in certain instances.

Worryingly for companies, product liability concerns continue to evolve. In September 2022, for example, the European Commission presented its proposal for revising the EU's Product Liability Directive. The revision aims to modernise the text with a view to addressing challenges posed by new trends impacting consumers and products, such as the digital revolution.

As other jurisdictions implement revisions to their product liability regimes, it is important that companies take steps to protect themselves and their D&Os, through enhanced manufacturing controls, risk management processes, insurance policies and other measures.

Against this backdrop, Financier Worldwide turns to some of the leading lights in their field, who share their stories...





JODOK WICKI
CMS von Erlach Partners Ltd



DOUGLAS E. FLEMING
Dechert LLP



CHRISTOPHER G. CAMPBELL
DLA Piper LLP (US)



JENNIFER L. GREENBLATT
Goldman Ismail Tomaselli Brennan & Baum LLP



MANDI JACOBSON
Hogan Lovells



HARIKLIA KARIS
Kirkland & Ellis, LLP



CAROLINE ZAYID
McCarthy Tétrault LLP



JACQUELINE HARRIS
Pinsent Masons














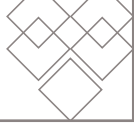








ALISON NEWSTEAD
Shook, Hardy & Bacon International LLP



JESSICA DAVIDSON
Skadden, Arps, Slate, Meagher & Flom LLP

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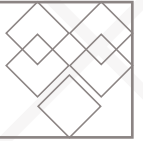
PERSONAL BIOGRAPHY

Jodok Wicki's practice focuses on dispute resolution, litigation and international arbitration. He led the firm's dispute resolution group for many years and is involved in the dispute resolution group of CMS. He maintains an active practice of state court litigation and appellate proceedings in a variety of commercial matters, such as sale & purchase agreements, joint ventures, post-M&A disputes, director & officer and auditor liability, and product liability. He also has a particular focus on insurance matters and is qualified as a certified specialist of the Swiss Bar Association for torts and insurance law.



JODOK WICKI

CMS von Erlach Partners Ltd



Q&A WITH JODOK WICKI

Could you provide an insight into how you approach your work? What drives and motivates you?

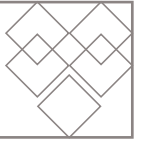
◆ The work of a lawyer is extremely varied, and no one day is like the other. It is this constant change and challenge that I like. I ask myself every day: do I really know all the relevant facts of the matter? Are there aspects that have not yet been considered? Is there a larger issue behind my client's questions? What is the best and most efficient way forward? My aspiration is to provide advice for my clients which exceeds their expectations. Some of the most rewarding situations are when longstanding clients come back to you with a new matter, or when a new client is contacting you following a recommendation, or when a colleague, who might be conflicted, recommends you because they know that their client will be in good hands.

Are you active in any programmes or initiatives within your organisation? To what extent have you found this work rewarding and fulfilling?

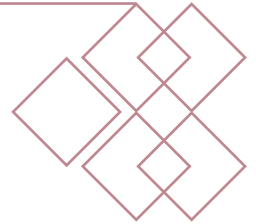
◆ I have taken on many different functions in the firm over the years. I led our dispute resolution group, I was engaged in the hiring of our legal staff, then I took over as the managing partner of CMS Switzerland, and now I am the partner responsible for our IT. Each function allows you to have an impact that goes beyond the daily work as a lawyer. It is great to see members of the firm working together, each bringing in their expertise, ideas, energy and personality. This makes working not only more interesting, but also fun and rewarding. When I see young lawyers showing their appreciation at work, and partners cooperating, each with their specific experience, and members of the firm show that they enjoy work, I feel that it is worth investing that extra time and energy.



JODOK WICKI
CMS von Erlach Partners Ltd



In what ways do you endeavour to support the career development of your colleagues rising through the ranks?



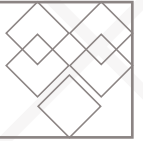
◆ Younger lawyers must grow into their roles. Finding out what level of independence can be given to a young lawyer for working on an assignment takes time and requires the experience of the delegating partner. The challenge is to demand just a little bit more than a lawyer would have chosen her or himself. Much like in the gym, you will not gain the same training effect if do not add enough weight, but adding too much weight will crush you or make you walk out of the gym. Another important, ongoing aspect is that those who delegate need to understand feedback. Discussing a work result takes time but demonstrates appreciation for a younger team member's work. The motivation that results from this process should not be underestimated. There are, of course, many other aspects that are just as important. Ultimately, they should lead to the right mix, which everyone has to find for her or himself, and which needs to be adjusted and rebalanced over time. As a lawyer friend put it many years ago: "Only happy lawyers are good lawyers." ■

**"SOME OF THE MOST REWARDING SITUATIONS ARE WHEN
LONGSTANDING CLIENTS COME BACK TO YOU WITH A NEW
MATTER, OR WHEN A NEW CLIENT IS CONTACTING YOU
FOLLOWING A RECOMMENDATION."**



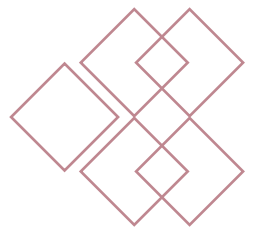
JODOK WICKI

CMS von Erlach Partners Ltd



REPRESENTATIVE ENGAGEMENTS

- ◆ Counsel for a global chemicals company in defence of several hundred claims relating to chemical products for agricultural use.
- ◆ Counsel for a global chemicals company in defence of parallel claims relating to a chemical product for fabrication of consumer products.
- ◆ Counsel for a producer of pharma products in dispute with a subcontractor.
- ◆ Counsel for a life sciences company in the defence of claims relating to artificial hip joints.
- ◆ Counsel for a producer of solar power products.
- ◆ Counsel for insurers relating to several product liability cases (chemical industry, food, agriculture, solar) concerning liability and coverage aspects.





Product Liability



DOUGLAS E. FLEMING

Partner

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PERSONAL BIOGRAPHY

Douglas E. Fleming III focuses on complex litigation, specifically matters concerning mass torts, product liability, environmental toxic torts and insurance. Mr Fleming regularly represents clients from the chemical, pharmaceutical, medical device, consumer product, building materials and insurance industries. His clients have included numerous Fortune 500 companies located nationwide involved in mass tort litigation filed across multiple federal and state jurisdictions. He has extensive experience litigating cases at both the trial and appellate levels throughout the US, including examining and preparing witnesses for deposition, Daubert hearings and trial and legislative testimony.

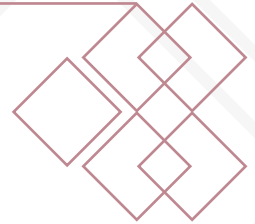
Dechert
LLP

**DOUGLAS E. FLEMING**

Dechert LLP



Q&A WITH DOUGLAS E. FLEMING

**Could you provide an insight into how you approach your work? What drives and motivates you?**

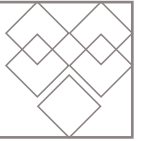
◆ We defend large litigation matters involving all manner of products and industries. We approach our work in a 360-degree manner, focusing not just on the litigation, but also on the often critical legislative and communications issues that intersect with it. The cases we handle tend to be some of the most significant lawsuits facing our clients, involving substantial complexities, unique pressures and strategic judgment calls. I think it is very important in this kind of work in particular to put myself in the shoes of our clients. This helps me focus on what is most important to them and to stay laser-focused on developing strategies that best serve their objectives. I also constantly ask myself and our clients throughout the course of an engagement if we are meeting the high expectations that they correctly have and that resulted in them retaining us at the outset.

Are you active in any programmes or initiatives within your organisation? To what extent have you found this work rewarding and fulfilling?

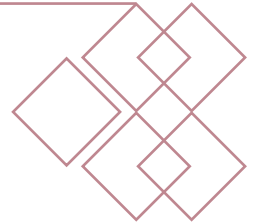
◆ Pro bono works runs deep through the blood of the firm. We rank among the highest of large law firms with respect to our commitment to pro bono work. As part of that commitment, I have been very fortunate to have the opportunity to lead with others a pro bono initiative that focuses on bringing cases in housing courts. We bring these cases on behalf of tenants who live in substandard, privately-owned rental apartments that have been neglected by their owners and landlords. These apartments suffer from egregious violations of housing codes and regulations, and the tenants who live in them often do not have financial means or practical access to lawyers. Having grown up in an apartment myself, I find it to be

**DOUGLAS E. FLEMING**

Dechert LLP



extremely gratifying when we are able to impact someone's life at the most fundamental level by helping them get their homes repaired through our litigation work.

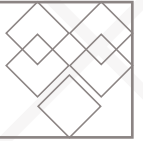
**What strengths and characteristics do you, your team and your firm strive to demonstrate to clients?**

◆ I have practiced with many of the same colleagues in the product liability and mass torts space for more than 20 years. The team spirit and collegial nature of our group has been one of the most fulfilling aspects of my work. We have an extremely deep roster of true experts in the field of product liability in multiple subject areas that are critical to successfully defending against the onslaught of litigation that ensues when a corporation or product is targeted by the highly resourced national plaintiffs' bar. We have nationally recognised practitioners in complementary areas that are indispensable through the entire lifecycle of a mass torts matter, including with respect to trials, expert and scientific challenges, strategic leadership of multidistrict litigation and coordinated state court proceedings, complex legal issues and appeals, settlements, and crisis and communications management. ■

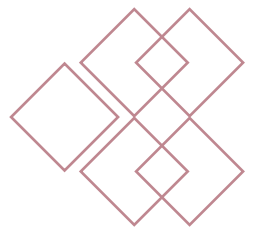
**"THE CASES WE HANDLE TEND TO BE SOME OF THE MOST
SIGNIFICANT LAWSUITS FACING OUR CLIENTS, INVOLVING
SUBSTANTIAL COMPLEXITIES, UNIQUE PRESSURES AND
STRATEGIC JUDGMENT CALLS."**

**DOUGLAS E. FLEMING**

Dechert LLP

**REPRESENTATIVE ENGAGEMENTS**

- ◆ Representing chemical manufacturers and processors in environmental mass tort litigations filed nationwide, including class actions and individual actions.
- ◆ Representing a cosmetics manufacturer in individual product liability lawsuits filed nationwide.
- ◆ Representing major pharmaceutical manufacturers in multidistrict product liability litigations alleging that prescription and generic medications caused personal injuries.
- ◆ Representing a building materials manufacturer in multidistrict litigation, seeking monetary relief for allegedly defective products.
- ◆ Representing a major consumer product manufacturer in individual and aggregated product liability lawsuits alleging personal injuries and economic damages, as well as in related regulatory and legislative matters.
- ◆ Representing a robotic surgery manufacturer in medical device litigation.
- ◆ Representing a leading property and automobile insurer in a variety of actions, including class actions, coverage actions and commercial actions.





Product Liability



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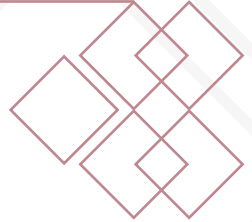
PERSONAL BIOGRAPHY

Chris Campbell is the chair of DLA Piper's product liability and mass tort practice group, which is among the world's largest and most award-winning product liability defence teams. A graduate of Harvard Law School, he has more than 20 years' experience in all phases of mass torts, class actions and other complex litigation, including trying cases and arguing appeals. Mr Campbell serves as global, national and trial counsel for multinational companies in the life sciences, consumer, automotive and technology sectors. He also advises clients on regulatory, communications and other matters.



**CHRISTOPHER G. CAMPBELL**

DLA Piper LLP (US)

**Q&A WITH CHRISTOPHER G. CAMPBELL****What strengths and characteristics do you, your team and your firm strive to demonstrate to clients?**

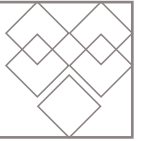
◆ At DLA Piper, we pride ourselves on our agile mindset, our global vision and being a valued partner to our clients. Having an agile mindset means being flexible, thoughtful and creative in how we help clients solve their most significant challenges. We know that each client and case are different, so we listen to our clients and tailor our approach to their needs and objectives. Our global vision refers to the breadth and scope of our geographic coverage, but also our ability to see the big picture, literally and figuratively. A consistent compliment from our clients is that we see our clients' challenges in their totality, not limited to a specific practice group or legal area. Lastly, we want to be a valued partner to our clients, which means always providing high-quality service, but also working so closely with clients that they see you as one of the family.

**Are you active in any programmes or initiatives within your organisation?
To what extent have you found this work rewarding and fulfilling?**

◆ As chair of DLA Piper's product liability and mass torts group, I have been fortunate to participate in many programmes internally and externally that I would be proud to share. One is our firm's recent Product Liability Symposium, sponsored by the diversity and inclusion committee of the product liability and mass torts group. This programme showcased several diverse, talented associates and partners in our group. It also included a discussion of diversity and inclusion initiatives among several clients. Another programme is a series we call 'client conversations', which includes a Q&A with in-house counsel from key clients every quarter. This allows everyone in our group to get to know our clients better, so that we can

**CHRISTOPHER G. CAMPBELL**

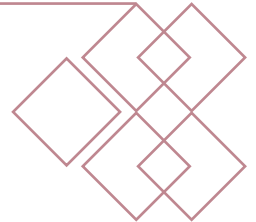
DLA Piper LLP (US)



better serve their needs. Lastly, I would highlight our end-of-year awards ceremony, where we acknowledge those partners, associates and staff members who have made important contributions to the group.

Reflecting on your area of expertise, how do you see this sphere of the market shaping up over the coming months? Are any exciting trends or developments on the horizon?

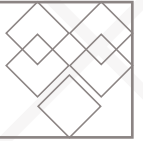
◆ I have handled product liability and class action matters on six continents. I say this to highlight the growing trend of global mass torts, product liability and class action litigation. In the old days, a large US mass tort might be followed by similar claims in Canada and occasionally Australia. Now, we are routinely seeing follow-on claims in those countries, as well as throughout Europe, South America, and occasionally in Asia and Africa. In 2020, the European Union (EU) issued a Directive on Representative Actions. While not yet fully implemented, this directive has already led to a significant increase in class-action style claims by consumers across Europe. DLA Piper has been at the forefront of defending those cases. For example, I represent a global life sciences company in product liability cases involving thousands of plaintiffs across four continents. ■



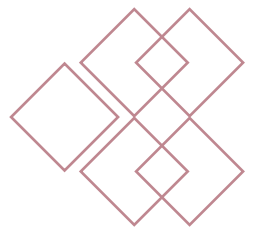
“IN 2020, THE EUROPEAN UNION (EU) ISSUED A DIRECTIVE ON REPRESENTATIVE ACTIONS. WHILE NOT YET FULLY IMPLEMENTED, THIS DIRECTIVE HAS ALREADY LED TO A SIGNIFICANT INCREASE IN CLASS-ACTION STYLE CLAIMS BY CONSUMERS ACROSS EUROPE.”

**CHRISTOPHER G. CAMPBELL**

DLA Piper LLP (US)

**REPRESENTATIVE ENGAGEMENTS**

- ◆ Global strategic and coordinating counsel for global life sciences company in product liability and class action litigation involving a contraceptive medical device, in which the company has successfully defended every case decided to date.
- ◆ National counsel for global life sciences company, global equipment manufacturer, global automotive company and global retailer on environmental and toxic tort product liability litigation throughout the US.
- ◆ National trial counsel for global tyre and technology company for product liability matters throughout the US.
- ◆ Counsel for global life sciences company in nationwide class action litigation involving a contraceptive product.
- ◆ Counsel for technology company in nationwide class action litigation related to data security.
- ◆ Global counsel to life sciences company in mass tort and class action litigation in the US, Canada, Australia and Europe involving smoking cessation medication.
- ◆ Global counsel to life sciences company in product liability claims related to the company's worldwide clinical trials.





Product Liability



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PERSONAL BIOGRAPHY

Jennifer Greenblatt is a partner in the Chicago and Dallas offices of litigation boutique Goldman Ismail. Ms Greenblatt has a long track record of successfully defending high-stakes product liability litigations. She serves as lead nationwide and trial counsel for pharmaceutical and medical device companies facing multidistrict litigation where she is known for executing creative legal strategies and connecting with judges and juries alike across the country. She is consistently recognised for her work by The Legal 500, Chambers USA, Benchmark Litigation, LMG Life Sciences and Law360.

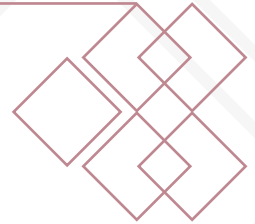


**JENNIFER L. GREENBLATT**

Goldman Ismail Tomaselli Brennan & Baum LLP



Q&A WITH JENNIFER L. GREENBLATT

**Could you provide an insight into how you approach your work? What drives and motivates you?**

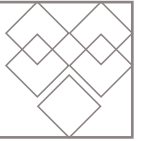
◆ I am always looking for the most efficient and effective way to achieve my clients' objectives, whether defeating a bid to consolidate actions in a particular venue, winning dispositive motions, securing a favourable jury verdict or otherwise positioning major litigations for the best possible outcomes. The trust placed in me to defend 'bet the company' cases, along with the complex issues that inevitably come with handling those types of matters, motivates me to deliver exceptional results no matter the hurdles. Getting to partner with the most sophisticated clients, and often joining forces with incredible co-counsel, many of whom are handpicked under a virtual law firm model, is a privilege I do not take for granted. Each case involves new strategic choices to make as a team, which keeps things interesting.

What strengths and characteristics do you, your team and your firm strive to demonstrate to clients?

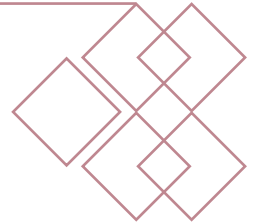
◆ My firm manages cases differently from traditional law firms by using only alternative-fee arrangements, often with risk-sharing components to ensure our interests and our clients' interests are aligned. We focus our teams' efforts on outcome-determinative tasks and case-dispositive issues, rather than billing time. Our ability to credibly and simply present complex scientific topics using a deep bench of talent allows us to creatively explore strategies and give sound guidance. Our science team is second to none and includes five attorneys with medical degrees who bring a unique skillset to litigation faced by our clients. Our science-focused mentality has enabled us to obtain dismissal of thousands of product liability cases after

**JENNIFER L. GREENBLATT**

Goldman Ismail Tomaselli Brennan & Baum LLP



winning expert challenges and then summary judgment motions in multi-district litigations (MDLs) and bellwether proceedings. We help our clients find the clearest path to complete resolution, whether by developing a winning legal theory, leading expert witness teams or achieving courtroom victories.



Reflecting on your area of expertise, how do you see this sphere of the market shaping up over the coming months? Are any exciting trends or developments on the horizon?

◆ Pre-emption decisions in the wake of the US Supreme Court's decision in *Merck v. Albrecht* remains an important area of development for those like me that routinely litigate the issue. Confirming that whether the FDA would have approved a change to a pharmaceutical drug label is normally a question for a judge – not a jury – to decide, is a gamechanger. I also expect that the viability of both general and specific personal jurisdiction challenges will remain in flux. Venue often drives both the day-to-day and long-term risk for litigation. The ability of out-of-state defendants to avoid litigating in a jurisdiction unrelated to the dispute hangs in the balance as appellate courts define the limits of the doctrines. ■

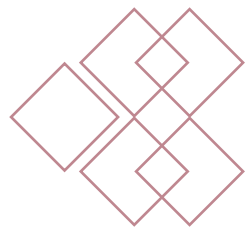
**“THE ABILITY OF OUT-OF-STATE DEFENDANTS TO AVOID
LITIGATING IN A JURISDICTION UNRELATED TO THE DISPUTE
HANGS IN THE BALANCE AS APPELLATE COURTS DEFINE THE
LIMITS OF THE DOCTRINES.”**

**JENNIFER L. GREENBLATT**

Goldman Ismail Tomaselli Brennan & Baum LLP

**REPRESENTATIVE ENGAGEMENTS**

- ◆ Lead counsel for radiology contrast agent manufacturer in nationwide litigation involving varied claimed injuries from retention. Defeated petition for multidistrict consolidation and secured dozens of voluntary and court-ordered dismissals.
- ◆ Served on numerous trial teams for manufacturer of osteoporosis medication in cases involving alleged atypical femur fractures and osteonecrosis of the jaw, respectively, resulting in defence jury verdict, mistrial and several voluntary dismissals.
- ◆ Trial counsel for IVC filter manufacturer in a case that settled days before jury selection.
- ◆ Lead counsel for manufacturer in wrongful death action involving alleged birth defects from in-utero exposure to a calcium channel blocker that was voluntarily dismissed.
- ◆ Won summary judgment for nerve-monitoring endotracheal tube manufacturer in wrongful death case after successfully moving to exclude causation expert.
- ◆ Secured voluntary and court-ordered dismissals for manufacturer of radiology contrast agent in remanded MDL cases involving rare systemic fibrosis disease.
- ◆ Deposed over a dozen plaintiffs for pelvic mesh manufacturer in federal MDL.





Product Liability



MANDI JACOBSON

Partner

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PERSONAL BIOGRAPHY

Mandi Jacobson is a regulatory and disputes partner at Hogan Lovells in Sydney specialising in product liability, privacy and cyber, and the regulation of a broad range of products in Australia including medicines, medical devices, cars, food & beverages and cosmetics. She is experienced in contentious regulatory matters with the ACCC, TGA and Office of the Australian Information Commissioner, and state regulators, as well as defending actions and class actions in Australia.

**Hogan
Lovells**

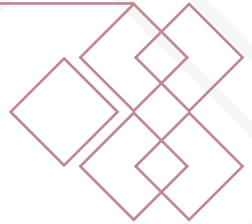


MANDI JACOBSON

Hogan Lovells



Q&A WITH MANDI JACOBSON



What do you consider to be your major career achievements?

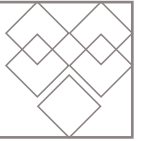
◆ The day I was invited to be a partner at Hogan Lovells was a major career achievement. I had worked with Hogan Lovells lawyers on joint projects and matters previously, and always had a deep respect for their global regulatory practice. I can work on incredibly interesting projects with teams of people, including global projects, often involving novel products and technologies. I am particularly proud of the work I do in the clinical trial space because of the benefits it brings to patients, which may be lifesaving. I have also worked on two large class actions which were incredible experiences, defending corporations. The first class action I worked on related to a medicine with alleged safety defects, while the second was defending a shareholder class action. I am also proud of the way I run my team. We work long hours, but I have fostered a team culture that values flexible working, open communication and trust, as well as respect for our commitments outside of the office. Being a mum, I have created a way of working that suits my lifestyle and priorities, while still being able to be a partner of a law firm.

Are you active in any programmes or initiatives within your organisation? To what extent have you found this work rewarding and fulfilling?

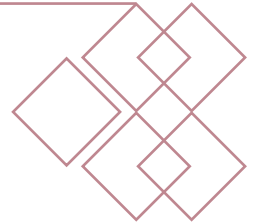
◆ I am involved in the firm's diversity and inclusion (D&I) programme, as well as in the firm's sustainability programme. I am a big supporter of bringing your whole self to work, and I believe the firm's D&I programme promotes individuality and authenticity. Our vision for Hogan Lovells is to make a meaningful positive impact within our communities and on society, and to establish ourselves as one of the market leaders in diversity, equity and inclusion (DE&I). Delivering on our commitment to DE&I is one of

**MANDI JACOBSON**

Hogan Lovells



the five key strategic priorities of the firm. I am proud of the fact that 51 percent of all lawyers in APAC are women (including partners). We believe inclusion is the enabler to both increasing and retaining diversity across our region and key to many of the other cultural qualities we aspire to demonstrate.



Reflecting on your area of expertise, how do you see this sphere of the market shaping up over the coming months? Are any exciting trends or developments on the horizon?

◆ We are carefully watching the class action space at the moment with recent developments in the Australian automotive sector, including plaintiff class action firms that are currently investigating potential claims against a number of major car manufacturers over claims made in respect to the manipulation and misreporting of engine testing. This follows a number of active class actions that are currently before the Federal Court of Australia. Although the factual matters of each of these class actions differs, each of the cases turn on breaches of the Australian Consumer Law. In some cases, it is alleged that manufacturers have breached statutory guarantees of acceptable quality or supply by description. ■

**"WE ARE CAREFULLY WATCHING THE CLASS ACTION SPACE
AT THE MOMENT WITH RECENT DEVELOPMENTS IN THE
AUSTRALIAN AUTOMOTIVE SECTOR."**

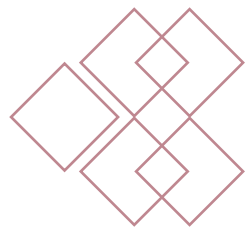
**MANDI JACOBSON**

Hogan Lovells



REPRESENTATIVE ENGAGEMENTS

- ◆ Representing a large multinational medical device company in a coronial investigation relating to the device's safety.
- ◆ Representing an automotive client in relation to alleged defective components.
- ◆ Representing a medical device company where a product defect led to a privacy breach.
- ◆ Representing a pharmaceutical company in relation to supplying medicines in Australia without appropriate warning labels.
- ◆ Representing a supplier of PPE in Australia in relation to alleged product defects.
- ◆ Representing a pharmaceutical company in relation to injuries sustained to patients in a clinical trial.
- ◆ Representing a car seat manufacturer in relation to alleged product defects.





Product Liability



HARIKLIA KARIS

Partner

Kirkland & Ellis, LLP

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PERSONAL BIOGRAPHY

Hariklia Karis has extensive lead trial experience in jury and bench trials and arbitration in a broad range of high-profile personal injury, product liability and other commercial cases. She was recently recognised as a first-class trial lawyer in mass tort and commercial litigation by Law360 MVP for Trials. The American Lawyer named her 'Litigator of the Week' for achieving the first defence win in 3M's earplug litigation which involves the largest MDL in US history. She was named to American Lawyer's Midwest Trailblazers and named The National Law Journal's Winning Litigator for 2022 after securing wins in three different MDLs.

KIRKLAND & ELLIS LLP

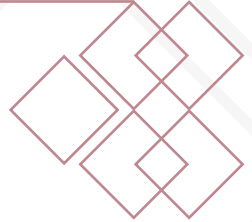


HARIKLIA KARIS

Kirkland & Ellis, LLP



Q&A WITH HARIKLIA KARIS



What do you consider to be your major career achievements?

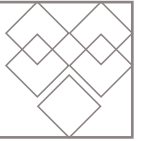
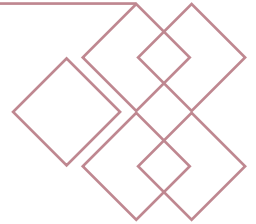
◆ My major career achievements are handling and trying many pieces of litigation and trials on large, ‘bet the company’ litigation for global companies like BP after the Deepwater Horizon oil spill in the Gulf of Mexico. I have also successfully led multiple trial teams throughout the country for several pharmaceutical and other companies in federal and state courts in product liability and other mass tort catastrophic cases. Most recently, I successfully led back-to-back numerous different lengthy trials involving different products – opioids, testosterone therapy and 3M combat-arms earplugs – with different clients in different courts, including winning the first bellwether trial in 3M’s high-stakes product liability case with over 200,000 plaintiffs and the largest multi-district litigation (MDL) ever filed in the US.

Looking back, have you fulfilled the ambitions and aspirations you set for yourself early in your career?

◆ My parents emigrated from Greece to Illinois on a worker’s visa. Neither graduated from high school. When they came to the US with two children, they made minimum wage, saving as much as they could for our education. They instilled in us the value of hard work, dedication and pride in whatever we did. Born in Greece, I began school in the US without knowing English. My dad, rest his soul, joked with me growing up that I should be a lawyer, work hard and be successful. My parents instilled in their children that we could do anything, but college was vital. So many of the dreams I did not even know were possible came true. I get to advocate for my clients and am a leading trial lawyer at Kirkland, a premier trial firm. I have worked hard and had the opportunity to represent companies in historical litigation such as BP in its oil spill litigation, and 3M.

**HARIKLIA KARIS**

Kirkland & Ellis, LLP

**What strengths and characteristics do you, your team and your firm strive to demonstrate to clients?**

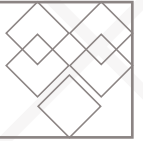
◆ Kirkland's market-leading complex litigation and investigations practice has risen to such success due to the drive, grit and determination each member of the team has to push forward for their clients to get them a win. We also emphasise preparedness, approaching each case as if it will go to trial while staying nimble enough to pursue alternate paths to a more favourable result. Kirkland's global platform of complementary service areas is broad, but our lawyers never lose sight of the important roles collaboration, collegiality and mentorship play in our success. Taking full advantage of the firm's network allows us to create diverse teams to provide creative solutions to complex business issues, leads to more opportunities for attorneys at all levels to contribute to important matters, and helps us identify and develop the next generation of Kirkland litigators.



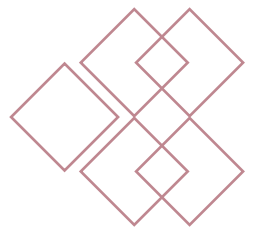
"WE ALSO EMPHASISE PREPAREDNESS, APPROACHING EACH CASE AS IF IT WILL GO TO TRIAL WHILE STAYING NIMBLE ENOUGH TO PURSUE ALTERNATE PATHS TO A MORE FAVOURABLE RESULT."

**HARIKLIA KARIS**

Kirkland & Ellis, LLP

**REPRESENTATIVE ENGAGEMENTS**

- ◆ Representing 3M as lead trial counsel in the largest MDL arising from allegations that hearing protection devices caused injuries in *Combat Arms Earplugs*.
- ◆ Represented Louis Berger involving the collapse of a pedestrian bridge at Florida International University resulting in fatalities and over 20 lawsuits in *Humble v. FIGG Bridge Engineers*.
- ◆ Represented Actavis as lead trial counsel in testosterone replacement drug that resulted in jury defence verdict in less than one hour of deliberations in *Martin v. Actavis*.
- ◆ Represented Allergan as lead trial counsel in a three-month trial involving prescription opioids in *In re City and County of San Francisco et al. v. Purdue Pharma*.
- ◆ Represented AbbVie as trial counsel in the MDL arising from AndroGel, a testosterone replacement drug, achieving the first victory that led to resolution of MDL in *In re TRT*.
- ◆ Represented BP as co-lead trial counsel for the MDL stemming from its 2010 Deepwater Horizon oil spill in *In re DWH*.





Product Liability



CAROLINE ZAYID

Partner

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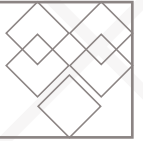
PERSONAL BIOGRAPHY

Caroline Zayid is a litigation partner in the Toronto office of McCarthy Tétrault. Her practice focuses on product liability, class actions and public law. With extensive expertise and experience in product recalls and other product liability issues, she helps clients navigate their legal, business and reputational challenges, frequently leading a multijurisdictional team. She has appeared at all levels of court in Ontario and at the Supreme Court of Canada. She also has argued appeals in class action matters before the courts of appeal of British Columbia and Saskatchewan. She has successfully represented clients on some of Canada's landmark cases.

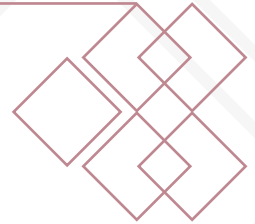
**mccarthy
tétrault**

**CAROLINE ZAYID**

McCarthy Tétrault LLP



Q&A WITH CAROLINE ZAYID

**Could you provide an insight into how you approach your work? What drives and motivates you?**

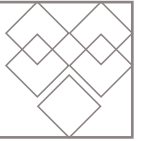
◆ I start with listening. To effectively address the challenges and opportunities a client is facing, you need to be in tune with their legal, business and reputational concerns and objectives. Clients expect us to apply learnings from our experience, but we also know that every client has its own priorities – short and longer term. Understanding these priorities allows me to strategically apply our experience to a particular situation. I also focus on the future. This means using our legal expertise to get clients to where they want to be and to help them anticipate what will happen next. In product liability work, the landscape can change quickly as regulators, customers, media and other stakeholders get involved. We cannot control everything, but we can help clients anticipate what is likely to happen and be prepared for it. Helping clients mitigate risk and achieve favourable resolutions motivates me in my practice.

What strengths and characteristics do you, your team and your firm strive to demonstrate to clients?

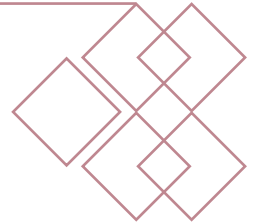
◆ I have been fortunate to spend my whole legal career at McCarthy Tétrault, a firm highly regarded for its litigation practice and incredible team of lawyers with specialised expertise spanning all areas of law and deep industry knowledge across all sectors. We strive to demonstrate to clients that when they deal with me or any of our lawyers they benefit from our comprehensive range of firm expertise and insight. We also strive to ensure that our advice and representation serve the interests of the client as a whole. As litigators, we tend to get enthusiastic about the intricacies of a legal dispute. At McCarthy Tétrault, we ensure our team is always

**CAROLINE ZAYID**

McCarthy Tétrault LLP



thinking about the interests of the client overall and not just the twists and turns of the litigation process. We get to the heart of the real business issues, manage matters with objectivity and clarity, and navigate through disruption.



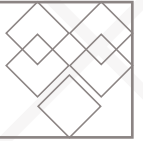
Reflecting on your area of expertise, how do you see this sphere of the market shaping up over the coming months? Are any exciting trends or developments on the horizon?

◆ In Canada, most litigation regarding consumer products has been brought in the context of class actions commenced following publicised product recalls or other regulatory activity. One emerging trend is that plaintiffs' lawyers are increasingly looking at bringing these claims as mass tort claims outside the class action regime. This is a product of some changes to the legal framework for class actions and is a reflection of the wider range of law firms pursuing product liability work. This trend will be a mixed blessing for defendants. It may allow companies to focus litigation resources on a smaller group of affected claimants rather than on the costly process of litigating certification for a large, poorly defined class. On the other hand, there are going to be many growing pains as the courts try to manage mass tort claims in an efficient way. ■

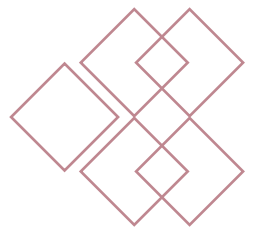
"IN CANADA, MOST LITIGATION REGARDING CONSUMER PRODUCTS HAS BEEN BROUGHT IN THE CONTEXT OF CLASS ACTIONS COMMENCED FOLLOWING PUBLICISED PRODUCT RECALLS OR OTHER REGULATORY ACTIVITY."

**CAROLINE ZAYID**

McCarthy Tétrault LLP

**REPRESENTATIVE ENGAGEMENTS**

- ◆ Representing Abbott Laboratories in its Canada-wide defence of several class actions alleging damages arising from the use of opioid products. Also successfully defended the company against certification of a class action alleging liability for its Meridia drug.
- ◆ Representing Sanofi in multijurisdictional class proceedings related to over the counter drug Zantac.
- ◆ Represented St. Jude Medical, Inc. and St. Jude Medical Canada, Inc. in defending a national class action relating to allegations of premature battery depletion in cardiac devices, including significant decision on role of third-party funding in class actions.
- ◆ Represented Takata Corporation, and its US subsidiaries, in multiple Canadian class actions concerning allegedly defective airbags.
- ◆ Represented a shoe manufacturer in class actions related to disputed product claims.
- ◆ Represented a manufacturer of a glucose monitoring device in a class action alleging defects in the product, including leading decision on waiver of tort.





Product Liability



JACQUELINE HARRIS

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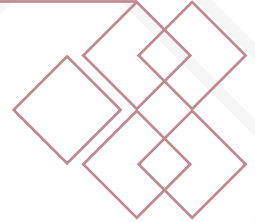
PERSONAL BIOGRAPHY

Jacqueline Harris is a litigation specialist with considerable experience in product liability disputes. She advises national and multinational companies on a range of liability and litigation matters, including product recall and withdrawal. She has dealt with complex litigation testing new issues and arguments including, for example, the 2014 Supreme Court case of *Imperial Brands v The Scottish Ministers*, which was one of the first Scottish cases to test the scope of devolved powers to regulate consumer products. She also acted in the first product liability case to run to proof in Europe involving tobacco and health claims.



**JACQUELINE HARRIS**

Pinsent Masons

**Q&A WITH JACQUELINE HARRIS****In what ways do you endeavour to support the career development of your colleagues rising through the ranks?**

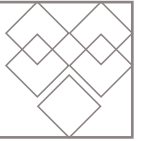
◆ It is important for junior lawyers to be client facing and to engage in as wide a range of matters as possible. I do not expect junior lawyers to work behind the scenes; I aim to give them early control and responsibility on matters. That allows lawyers to develop their own profile and facilitates identification of the practice areas of interest to them. This encourages engagement and motivation in their work and in their career progression. We have a fantastic team of junior lawyers and are fortunate to work with multinational clients – often on varied and high-profile issues – who support the involvement of lawyers at different post-qualified experience in their cases. Early responsibility for client work and maintaining client relationships is reflected in the ‘capability frameworks’ – a description of the skills and abilities required in each role – this firm uses. These allow the lawyer to understand their role during their career and to assist them in assessing their performance throughout the year.

What strengths and characteristics do you, your team and your firm strive to demonstrate to clients?

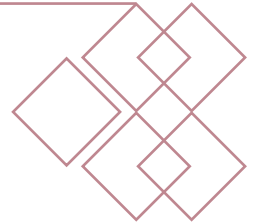
◆ The firm is committed to a sector focus coupled with expertise in our relevant fields. We focus on in-depth knowledge and understanding of our client, their industry and the issues faced by organisations in that sector. This allows us to advise on specific disputes based on our wider industry knowledge. Pinsent Masons places great emphasis on building strong relationships with clients. We always strive to be ‘part of the team’ with our clients and this can prove invaluable in the pressured environment of litigation. In product liability claims the technical proficiency of the team

**JACQUELINE HARRIS**

Pinsent Masons



is a key strength. They have a lot of experience of working with a range of technical and scientific issues and are very comfortable dealing with technical experts and technical client issues in relevant sectors.



Reflecting on your area of expertise, how do you see this sphere of the market shaping up over the coming months? Are any exciting trends or developments on the horizon?

◆ Group and mass actions continue to be an area of focus and development in product claims. Vehicle emissions claims are likely to continue with further groups of claims ongoing. Involvement of litigation funders continues to drive litigation as funders openly advertise the types of claims in which they are investing. 2022 saw the first product liability case to reach the UK Supreme Court. Life sciences generally, medical devices and healthcare products remain areas of focus for claims. The European Union (EU) has proposed a revised Product Liability Directive. Post-Brexit, this will not apply to the UK so we may see divergence from a previous common EU/UK framework. How legislators grapple with issues like artificial intelligence and the ‘internet of things’ is likely also to present a challenge. Finally, Scottish courts are also likely to see an increase in group claims following the introduction in the Scottish courts of specific rules on group proceedings. ■

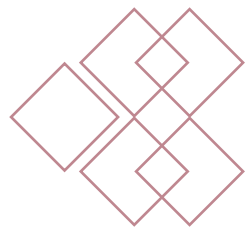
**“INVOLVEMENT OF LITIGATION FUNDERS CONTINUES TO DRIVE
LITIGATION AS FUNDERS OPENLY ADVERTISE THE TYPES OF
CLAIMS IN WHICH THEY ARE INVESTING.”**

**JACQUELINE HARRIS**

Pinsent Masons

**REPRESENTATIVE ENGAGEMENTS**

- ◆ Acting for a global manufacturing company in relation to a large number of claims seeking damages for alleged environmental impacts arising from the client's product manufacturing operations.
- ◆ Acting for a medical device manufacturer in the defence of a large group of claims alleging defect in transvaginal mesh products.
- ◆ Acting for manufacturers of metal-on-metal hip devices in a group of claims, alleging product defect and seeking damages for personal injury alleged to have arisen in consequence of the defect.
- ◆ Acted for a paper manufacturer in relation to a disputed sale and purchase agreement following product and material failures during manufacture and the contractual implications of failure.





Product Liability



ALISON NEWSTEAD

Partner

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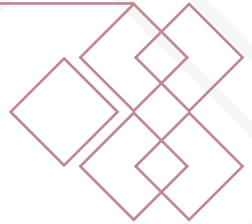
PERSONAL BIOGRAPHY

Alison Newstead's practice focuses on advising clients on issues related to product safety and product liability. She advises on a broad range of regulatory and litigation matters across a wide spectrum of industries. She advises companies on risk and liability issues throughout the product lifecycle, including pre-market risk analysis, regulatory compliance, investigating potential safety issues, and supporting clients in recall planning and implementing corrective action. She has extensive experience in liaising with regulatory bodies and guiding clients through regulatory investigations and enforcement action. She has longstanding experience in coordinating global product safety strategies and handling associated litigation and regulatory action.

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**ALISON NEWSTEAD**

Shook, Hardy & Bacon International LLP

**Q&A WITH ALISON NEWSTEAD****What do you consider to be your major career achievements?**

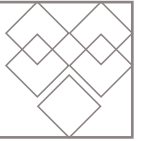
◆ Advising clients in the products sector has given me an amazingly rich and varied career. Working with so many different industries has meant that no two days have ever been the same. Being able to immerse myself in medical, engineering, mechanical, material, electrical, biological and many other disciplines has been both fascinating and an achievement in itself. I have advised on an enormous spectrum of issues. Product launches, complex contentious compliance issues, defence of product liability claims, inquests and international recalls are just a few examples of the range of matters I have handled. All matters are important and have shaped my practice and me as a lawyer. Whatever the scale or value of a matter, whatever the industry or product involved, achieving a client's objectives and becoming a trusted adviser are the real measure of success.

Could you provide an insight into how you approach your work? What drives and motivates you?

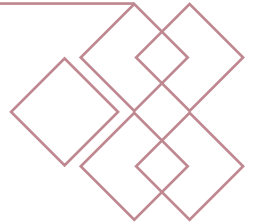
◆ Understanding the client's business and their overall objectives from the outset is key. There is so much information available in the public domain that it usually takes very little time to find out about a company, its product portfolio, its culture, historic and current challenges, and future aspirations. Investing time to get to know a company significantly improves my ability to give commercial and contextually relevant advice and gives me an insight into important issues which differ greatly between companies. There are many factors which drive and motivate me. It very much depends on the matter I am working on. There may be an issue that could impact significantly on public health, such as bringing a new, innovative product to market. Litigation can raise questions that are high stakes for large groups

**ALISON NEWSTEAD**

Shook, Hardy & Bacon International LLP



of individuals or a particular industry. Inquests are important in aiding the understanding of the issues surrounding a death. Much of my work is about fact-finding, investigation and collaboration in finding a way forward and reaching the goals of all involved.



Reflecting on your area of expertise, how do you see this sphere of the market shaping up over the coming months? Are any exciting trends or developments on the horizon?

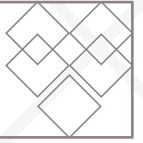
◆ Thirty years ago, advising on product liability, safety and risk was relatively straightforward. Products were objects that could be seen and touched and were usually purchased in shops. Nowadays, the range and complexity of products available is vast and purchasing online is commonplace. This changing landscape brings new legislation and obligations for manufacturers and those in the supply chain. Going forward, we will see continued progression on the proposal for a revised EU Product Liability Directive and General Product Safety Regulation. There will also be continued discussions regarding the Cyber Resilience Act and how its proposals affecting products with a digital element may be implemented. Sustainability, greenwashing, protecting vulnerable consumers, AI and connected products, autonomous vehicles, online marketplaces, regulatory enforcement and empowerment of consumers are all issues that products lawyers and their clients will be considering in the coming month. ■

“NOWADAYS, THE RANGE AND COMPLEXITY OF PRODUCTS AVAILABLE IS VAST AND PURCHASING ONLINE IS COMMONPLACE. THIS CHANGING LANDSCAPE BRINGS NEW LEGISLATION AND OBLIGATIONS FOR MANUFACTURERS AND THOSE IN THE SUPPLY CHAIN.”



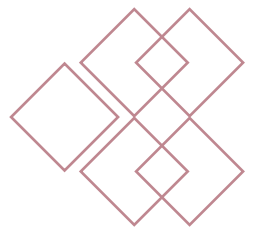
ALISON NEWSTEAD

Shook, Hardy & Bacon International LLP



REPRESENTATIVE ENGAGEMENTS

- ◆ Advising a consumer product manufacturer on UK and EU elements of potential recall and enforcement activity.
- ◆ Coordination of UK, EU and Middle East product safety compliance advice for an international manufacturer of consumer goods.
- ◆ National counsel to a life sciences client in inquest proceedings.
- ◆ Strategic and coordinating UK and EU product liability litigation counsel for a consumer products manufacturer.
- ◆ Counsel for a complex EU cross-border commercial litigation matter.
- ◆ Advising an international company on the UK/EU elements of a global recall policy.





Product Liability



JESSICA DAVIDSON

Partner

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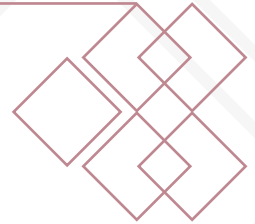
PERSONAL BIOGRAPHY

Jessica Davidson is a partner in Skadden, Arps, Slate, Meagher & Flom LLP's mass torts, insurance and consumer litigation group. Ms Davidson has served as lead defence counsel in multiple mass tort proceedings and also has successfully defended numerous large consumer class actions, involving a broad range of products and services from pharmaceutical products and medical devices to appliances, building products and cosmetics. Ms Davidson has a strong interest and focus in identifying and working with scientific experts and also has extensive appellate experience before state and federal courts of appeals and frequently advises clients on appellate strategy.

Skadden

**JESSICA DAVIDSON**

Skadden, Arps, Slate, Meagher & Flom LLP

**Q&A WITH JESSICA DAVIDSON****Could you provide an insight into how you approach your work? What drives and motivates you?**

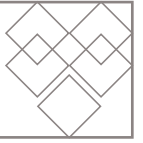
◆ I would say I approach work ravenously and passionately. Some people love movies, puzzles, video games or going out to dinner; my passion is complicated legal issues. I love new challenges. I love learning about new industries and products. I particularly love finding new experts and working with them because it gives me the opportunity to learn economics, science, marketing and so on. It is like being paid to learn and solve problems. My attitude toward work is also affected by my own insecurities. I always feel like clients have so many firms to choose from and put so much trust in us that I should work twice as hard to make sure I merit their trust in my practice group and in me.

In what ways do you endeavour to support the career development of your colleagues rising through the ranks?

◆ I always worry about bringing up gender-related issues, but the truth is nothing has affected me more as a lawyer and a colleague than being a mother. When I first became a lawyer, I expected everyone to be quick like me and have my style and approach, and when I became a mum I ended up with three kids with very different learning and communication styles. That made me realise that my way is not necessarily the only way or even always the best way. As a result, I think I became a much better colleague because I have learned not just to have patience for colleagues who approach things differently, but also that I can benefit from different styles of thinking. I also think especially with Zoom, a lot of work relationships have become very transactional, and I really try to get to know every associate as a person and friend. That is the best way to know what their goals are, what their

**JESSICA DAVIDSON**

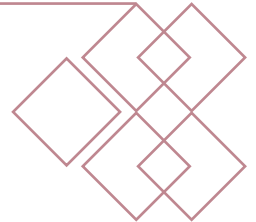
Skadden, Arps, Slate, Meagher & Flom LLP



challenges are and how I can best support them both professionally and personally.

What strengths and characteristics do you, your team and your firm strive to demonstrate to clients?

◆ The two characteristics that best describe our practice group are creativity and persistence. If a new associate comes to me and says there is not a single case going our way on some thorny issue, my usual response is: “That’s why they hired Skadden.” We are not deterred by adverse precedent, challenging facts or plaintiff-friendly courts. Instead, we look at these sorts of challenges from different angles and doggedly work to achieve the right result for our clients and for the development of the law. In fact, the more challenging a matter, the more excited we get. I guess that sounds a little perverse, but I also think that is what sets our group apart, why plaintiffs’ firms worry when they hear we are on the other side and why we can achieve strong results for our clients. ■



**“I THINK I BECAME A MUCH BETTER COLLEAGUE BECAUSE I HAVE
LEARNED NOT JUST TO HAVE PATIENCE FOR COLLEAGUES WHO
APPROACH THINGS DIFFERENTLY, BUT ALSO THAT I CAN BENEFIT
FROM DIFFERENT STYLES OF THINKING.”**



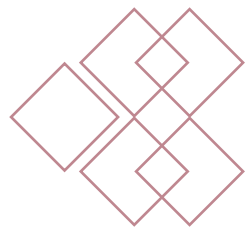
JESSICA DAVIDSON

Skadden, Arps, Slate, Meagher & Flom LLP



REPRESENTATIVE ENGAGEMENTS

- ◆ National coordinating counsel for Endo Pharmaceuticals in nationwide litigation involving the marketing and sale of prescription opioid medications.
- ◆ Serving as lead defence counsel and counsel for ZHP in MDL proceeding regarding valsartan contamination with nitrosamines.
- ◆ Defending TAMKO Building Products LLC in nationwide consumer class actions with regard to their roofing shingles.
- ◆ Representing GSK in consumer class actions involving Abreva, Emergen-C and Chapstick products.
- ◆ Representing J&J in talc and mesh litigation and obtaining multiple appellate victories for the company.
- ◆ Representing Snap in litigation involving teens and social media.



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Product Liability

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