



Product Liability

Stikeman Elliott understands the stakes involved in product liability litigation. Our litigators defend large complex product liability matters, including class actions and claims that may threaten the reputation or result in significant financial consequences of affected clients. We focus on achieving economically rational solutions that obtain the best possible result to achieve our clients' objectives, whether by way of an aggressive defence or a negotiated result. Clients also rely on our expertise to advise on preventative measures that can be deployed to avoid costly liability claims and recalls.

We have particular expertise in the defence of major claims involving highly technical issues. Our diverse client base includes manufacturers, distributors, wholesalers, retailers, suppliers, end users and their insurers. Among them is British American Tobacco PLC in its defence of actions brought by the health ministers across Canada, the largest aggregate product liability claim in Canadian history.

Stikeman Elliott litigators have extensive trial and appellate experience at all levels of provincial and federal courts, as well as before regulators, boards, tribunals, arbitration panels, commissions of inquiry and the governing bodies of a range of institutions and professional disciplines. Furthermore, our lawyers wrote the book on product liability, domestically and internationally: *The Law of Product Warnings and Recalls* (Lexis Nexis) provides advice on best practices and risk management to help companies and their legal advisors meet applicable standards and avoid liability.

Our Expertise

- Advertising and media
- Automotive
- Class action product liability claims
- Consumer products
- Defective design
- e-Commerce
- Food and beverages
- Industrial equipment
- Insurance issues
- Internal investigations
- Medical devices
- Pharmaceutical products
- Product labeling and warnings
- Recalls
- Regulatory compliance
- Single product claims
- Tort claims

Accolades

- *Lexpert 2019 Guide to the Leading US/Canada Cross-Border Lawyers in Canada* for Dispute Resolution

Recent Work

- British American Tobacco PLC in the C\$10B action being brought by the Province of Alberta for recoupment of tobacco related health care costs pursuant to the Alberta *Crown's Right of Recovery Act*.
- Medtronic Inc., in relation to Covidien pelvic mesh, in the cross-Canada class actions (including in Ontario, Quebec, Alberta and Saskatchewan) and individual litigation.
- The Purdue Frederick Company, Purdue Pharma L.P. and The P.F. Laboratories in proposed class actions commenced on behalf of users of OxyContin® which were instituted in nine Canadian provinces.
- An auto manufacturer in respect of a number of proposed airbag product liability class actions.
- Covidien Canada (Medtronic) in litigation involving the design and manufacture of its DST Stapler, which is used in Canada and globally in surgery for the treatment of advanced colon cancers.
- GWL Realty Corp. in litigation involving the failure of industrial heat exchanger units at the Gulf Canada Square building in Calgary, Alberta.
- ConocoPhillips Canada in its C\$30M litigation involving design and construction of road culverts and related earthworks for the Surmont Oil Sands Project.
- Galderma Canada and Galderma US in relation to litigation involving certain skin care products utilized widely by dermatologists.
- Exchanger Industries in litigation with CNRL surrounding the design, manufacture and supply of industrial heat exchangers for use in the Kirby Oil Sands Project.
- *Suat Yücel et al. v. Bombardier Inc. et al.*, Québec Superior Court: Represented Bombardier Inc. in connection with an action for several million Canadian dollars filed by two Turkish business aircraft pilots involved in an emergency landing in Russia.
- Telus Communications Inc., in relation to the plaintiff seeking damages stemming from the migration of mobile services from the Public Mobile network to the TELUS network, alleging that customers could not benefit from the legal warranty of durability for their mobile devices purchased for use on the Public Mobile network.
- Alstom Grid (now GE), and its insurer Axa/Intact with respect to losses sustained in connection with the work performed under a contract entered into with RioTintoAlcan for the supply and installation of the sub-station of RTA's new technology AP60 Aluminium Smelter in Arvida.
- Intel Corporation, Intel International, Inc. and Intel of Canada, Ltd. in the context of an application to authorize a class action on the basis of alleged defects affecting Intel's processors. These allegations arise in the wake of recent security research identifying certain exploits known as Spectre and Meltdown. The matter is respectively at the authorization and certification stage before the Quebec Superior Court and the Ontario Superior Court of Justice.