



Jay E. Smith

Counsel

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Related Services

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Jay Smith is a member of Alston & Bird's Environment, Land Use & Natural Resources Group. Jay focuses his practice on products liability defense for large corporations. In addition to developing and implementing strategies to defend against often novel claims in the products liability context, Jay has assisted manufacturer and distributor clients in managing large dockets of such cases. For a wide variety of pesticide and chemical product lawsuits, he has overseen and conducted all phases of discovery, including expert discovery involving multiple disciplines such as hydrogeology, groundwater modeling, and remediation. Jay also has experience at the trial level for these cases.

Representative Experience

Products Liability and Environmental Litigation

- Defended a pesticide manufacturer and several distributors in over 100 lawsuits in California Superior Court and various federal courts. Plaintiffs asserted claims for groundwater and drinking water contamination arising from agricultural applications of pesticides containing 1,2,3-trichloropropane (TCP). Helped manage the docket of claims exceeding \$1 billion for the target defendant pesticide manufacturer client for 17 years. Part of the trial team for three superior court jury trials, each in excess of three months in duration, resulting in one defense verdict and two other favorable verdicts.
- Defended a chlorinated solvents manufacturer in San Francisco Superior Court against \$250 million+ in public nuisance and products liability claims arising from soil and groundwater contamination from releases of perchloroethylene (PCE) at 39 dry cleaner sites.
- Defended a manufacturer of products containing hexavalent chromium (Cr6) in two related lawsuits brought by public drinking water providers. The client's products were alleged to have caused groundwater and drinking water contamination when used during operations at McClellan Air Force Base. Products liability, continuing nuisance, and RCRA claims were asserted.
- Obtained a statute of limitations summary judgment on behalf of a pesticide manufacturer sued by a drinking water provider asserting products liability claims based on groundwater contamination from agricultural applications of 1,2-Dibromo-3-chloropropane (DBCP) pesticide products.
- Co-counsel in a jury trial on behalf of three major gasoline refiners defending against BTEX property contamination nuisance claims asserted by a neighboring commercial property developer. A defense verdict was obtained.
- Defended a major oil company against a neighboring property owner's claim of crude oil soil and groundwater contamination from a previously abandoned oil well. Favorable settlement was achieved.

- Defended the manufacturer of a gasoline additive, methyl tertiary-butyl ether (MTBE), in a series of products liability and nuisance lawsuits alleging groundwater and drinking water contamination arising from leaking underground storage tanks. Part of the trial team for the first MTBE lawsuit to be tried in the United States lasting over six months. First legal team to secure product ID summary judgment for any defendant in MTBE litigation.
- Lead trial counsel for Business and Professions Code Section 17200 claims arising from alleged unfair business practices relating to advertising and product warnings for a gasoline additive.
- Represented the manufacturer of a pesticide product in defense against claims by seven individuals for personal injury and wrongful death allegedly resulting from workplace exposures to products containing TCP. Assisted in all phases of the pretrial workup of case, which resulted in one statute of limitations summary judgment, three defense verdicts, and three other favorable verdicts for the client.
- Defended a pesticide manufacturer against over 7,000 personal injury claims asserted by foreign banana plantation workers arising from alleged exposure to DBCP soil fumigant. Assisted in getting most claims dismissed based on forum non conveniens and other pretrial motions.
- Assisted in the defense of multiple chemical suppliers in a collection of birth defect and personal injury lawsuits brought by former employees of a semiconductor manufacturer. Obtained partial summary judgment rulings on behalf of several clients.

Complex Commercial Litigation

- Trial co-counsel for a major California-based electric utility asserting claims for over \$300 million in refunds from multiple municipalities arising from the California energy crisis. Favorable settlements were obtained during trial from all remaining defendants.
- Defended the second largest Canadian telecommunications company against \$30 million in breach of contract and business tort claims. Obtained dismissal of U.S. action in favor of a Canadian forum resulting in a favorable settlement for the client.
- Defended a franchisee of a national retail chain against claims of breach of conditions, covenants, and restrictions in commercial development. Defeated the temporary restraining order application, motion for preliminary injunction, and motion for summary judgment resulting in settlement which allowed the business to remain open.
- Represented a group of shareholders of an Oracle computing services provider in corporate control dispute with favorable results for the client.
- Represented a financial industry computer services provider in a claim for breach of contract against a major national bank. All claimed breach of contract damages and attorneys' fees were recovered for the client.
- Defended an international agricultural gene trait supplier for alleged breach of an IP licensing agreement and claim for damages exceeding \$175 million. Assisted with the trial and in the client's successful appeal resulting in reversal of the entire verdict.

Education

- University of Southern California (, 1992)
- Bowling Green State University (B.S., 1987)

Admitted to Practice

- California