

## 3 Myths About Choosing Winning Products Liability Cases

### - Myth #3

Dr. Art Eckstat

Products Liability Lawsuits Consultant

([www.linkedin.com/in/lawsuitsconsultant](http://www.linkedin.com/in/lawsuitsconsultant)) ([www.lawsuitsconsultant.com](http://www.lawsuitsconsultant.com))

### How to Choose Winning Contingency Fee Products Liability Cases

Choosing winning contingency fee products liability cases ensures a positive return on your investments of time, effort and money. Winning also enhances your reputation, enabling you to get and win more cases for more money in less time. Choosing the wrong cases drains your resources with no return and worse.

This is the third in a series of articles examining three of the top myths that often lead to mistakenly taking on a seemingly good case that turns out to be a loser in multiple ways.

The first article examined **Myth #1: An injured party with a good story makes for a good products liability lawsuit.** We looked at 3 common reasons for trial attorneys inadvertently accepting losing or under-performing products liability cases.

([Link to 1<sup>st</sup> Article](#))



The second article examined **Myth #2: You can always substantiate “obvious” negligence.** We looked at multiple ways that defendants can hide the truth.

([Link to 2<sup>nd</sup> Article](#))

### **Myth #3: I don't need (or can't afford) an expert to assist me in deciding whether or not I'm taking on a winning products liability case.**

This myth can be the most damaging. Believing you don't need an expert to assist you in deciding whether or not to take on a products liability case hurts you because you can unknowingly waste considerable time and money taking on an unwinnable or vastly under-performing case.

**The Reality:** The synergistic combination of your legal expertise and the technical expertise of the right products liability consultant is often required to determine whether you're choosing, crafting and conducting a winning or losing products liability case.

The first two articles in this series identified and examined the following potential hazards involved in choosing to accept a case where you can't prevail, or you have to settle for a much lower amount than warranted:

- **You haven't correctly identified the actual or proximate cause of the injury**
  - Were the prospective client's injuries incurred due to a **defective and unreasonably dangerous** product that the **manufacturer was negligent** in producing?
  - Were the injuries really the prospective client's own fault and they're just not taking responsibility for their mistake?
  - Have you correctly identified an action or inaction on the part of the defendant that produced the **foreseeable consequences**?
- **Your inability to substantiate negligence on the part of the defendant(s)**
  - Opposing Expert Witnesses can include "Hired Guns"
  - Testifying employees can be afraid of losing their jobs and benefits if they are forthright
  - Obfuscation can include burying relevant discovery responses in boxes or gigabytes of irrelevant discovery information that could overwhelm you
  - Removal of damaging documentation from the records
  - Failure to fully respond to interrogatories

- Improper interrogatory responses can include ignoring questions, claiming information doesn't exist, and hiding behind claims of "proprietary" information
  - Claiming off-shore information isn't unavailable or doesn't exist
  - It is often difficult to impossible to obtain the documentation needed to prevail if the failed part was manufactured outside of the USA by a foreign company.
- **The same deep-pockets defendant(s) that have the funds that make this appear to be a desirable case may also have the resources to bury you in costly delays and obfuscations**
    - If prevailing in your lawsuit could result in a public warning or a product recall, the named defendant(s) may use any means possible to avoid the attendant high costs and negative Public Relations.
    - Beware of defendants who have a reputation for "vigorous" defense tactics
    - Beware of defendants who have a history of injuries without meaningful recompense

Failure to identify the technical reasons for injuries can result in filing a losing complaint in what should have been a winning case.

I often witness how the failure to adequately assess a potential case results in the acceptance of losing cases or the filing of less effective, or ineffective, complaints that fail to provide appropriate, if any, justice for your injured clients.

**I am regularly contacted by attorneys after it's too late to help them.**

**Example:** I was one of the firearms experts contacted to support a case that was subsequently a subject of a Mythbusters episode where an individual lost their thumb firing a high power revolver. I explained why I couldn't support the plaintiff's case despite the horrific injuries, and I declined the invitation to be involved. I heard that the case was dismissed years later. How much time, money and lost opportunity were expended in that losing effort?

Having the right Consultant available during or after the initial client interview may ensure that a good case is accepted and initiated in the most

effective and efficient manner. Consulting or Testifying Experts who can assist in crafting and supporting the best complaint can be identified. The initial Lawsuits Consultant may be a desirable choice to serve as a retained Consulting or Testifying Expert in the matter.

**It costs just as much to lose a contingency fee case as it costs to win the case. You only get to recover those costs if you prevail!**

Inadvertently taking on a losing case will result in incurring the loss of all of your actual costs plus the lost opportunity of your time while also suffering the negative effects upon your reputation and the associated reduction in the ability to obtain quality future business. Engaging the services of a products liability Lawsuits Consultant to assist in determining whether or not to accept a potential products liability case can either save you or make you a lot of money and so much more.

**HELP IS AVAILABLE NOW:**

**If you need immediate help** with a pending or ongoing case, call me directly at **602.670.9651** or email me at [Art@LawsuitsConsultant.com](mailto:Art@LawsuitsConsultant.com).

**[CASE MERIT EVALUATION with Dr. Eckstat:](#)**

I perform a Case Merit Evaluation with you. We review the merits and/or Red Flags involved in choosing whether or not to accept or continue to pursue a products liability personal injury case.

**This Case Merit Evaluation can either make you or save you a lot of time and money!**

**Your Case Merit Evaluation does not require a retainer fee or further obligation and can be performed at a fraction of the cost of a typical retainer fee.**

**Call, [email](#) or go to my [website](#) to initiate your Case Merit Evaluation:**

**Phone: 602-670-9651**

**Email:** [Art@LawsuitsConsultant.com](mailto:Art@LawsuitsConsultant.com)

**Website:** [www.LawsuitsConsultant.com/case-merit-evaluation](http://www.LawsuitsConsultant.com/case-merit-evaluation)

## **Lawsuits Consultant**

Dr. Art Eckstat

**602.670.9651**

[Art@LawsuitsConsultant.com](mailto:Art@LawsuitsConsultant.com)

[www.LawsuitsConsultant.com](http://www.LawsuitsConsultant.com)

[www.linkedin.com/in/lawsuitsconsultant](http://www.linkedin.com/in/lawsuitsconsultant)

## **YOUR SECRET WEAPON for Winning Cases and Getting Justice for Your Clients**

### **STATE BAR OF ARIZONA CLE Snippet by Dr. Eckstat:**

The **State Bar of Arizona** partnered with me to produce a **CLE Snippet** where I presented “**How to Avoid Losing Cases and Get Winners.**”

### **AZ PARALEGAL ASSOCIATION CLE Webinar**

I presented a **CLE Webinar** to **AZ Paralegal Association** members entitled, “**Will That Product Liability Personal Injury Claim Prevail?**”



**How and Why Were They Injured?**

**Lawsuits Consultant**  
Dr. Art Eckstat - Mechanical Engineer  
[Art@LawsuitsConsultant.com](mailto:Art@LawsuitsConsultant.com)  
**602.670.9651**  
9221 E. Baseline Rd, #109-245  
Mesa, Arizona 85209

[www.LawsuitsConsultant.com](http://www.LawsuitsConsultant.com)