

3 Myths About Choosing Winning Products Liability Cases

- Myth #2

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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 second 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.** The reality is that every potential claim must be examined with multiple considerations, any one of which could make the case a loser for you and your client.

We looked at 3 common reasons for trial attorneys choosing to accept losing or under-performing products liability cases.

([Link to 1st Article](#))

Myth #2: I can always substantiate “obvious” negligence.



Be very, very careful here. Believing that “obvious” negligence can always be substantiated hurts you because there are multiple ways in which defendants can hide the truth.

The Reality: Every potential claim must be examined for ways that the defendant(s) can successfully hide their negligence.

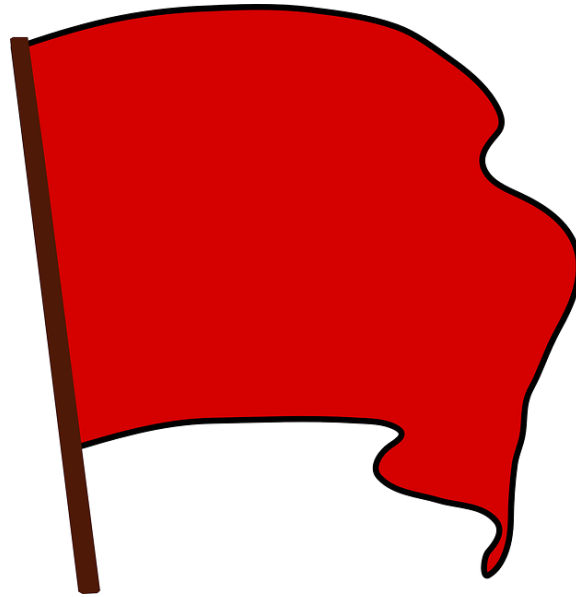
Your injured (or surviving) party comes to you with obvious injuries (or death) that you are able to determine were the result of a dangerously faulty product. You are able to accurately identify the Actual and Proximate Causes of the injury and the “obvious” negligence involved. The defendant(s) have deep enough pockets to make this a desirable case.



STOP! I encounter multiple ways that defendants attempt to hide the truth:

- **Opposing Expert Witnesses can include “Hired Guns” willing to testify to what they were retained to say**
- **Testifying employees can be afraid of losing their jobs and benefits if they are forthright**
- **Obfuscation can include burying relevant discovery responses in reams or boxes or gigabytes of irrelevant discovery information that could overwhelm you**
- **Removal of damaging documentation from the records (Just because it’s illegal doesn’t mean that it doesn’t happen)**
- **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 available or doesn’t exist**

Example: An attorney contacted me regarding an injured client in a case that had been dragging on for years. After reviewing the documentation submitted by the defendant, it was apparent to me that the documentation was incomplete. Fortunately for the plaintiff, I found abbreviations that had been overlooked by others that provided the same evidence that would have been present if more complete documentation had been available.



RED FLAG WARNINGS

Be aware of the following “**Red Flags**” that may indicate substantial delays or the inability to substantiate negligence:

- **The failed part was manufactured outside of the USA by a foreign company.** It is often difficult to impossible to obtain the documentation needed to either prevail or negotiate a fair settlement.
- 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 or
- A history of injuries without meaningful recompense

Large, multinational corporations may deny culpability and employ tactics that can result in years of obfuscation, delays and mounting costs. However, the actual possibilities of product recalls, bad publicity, sanctions and fines, or class-action suits can all be strong motivators for a sizeable settlement prior to trial.

Crafting interrogatories that indicate that you already know what the problems and the answers are as opposed to looking like you're just engaging in a fishing expedition can be very effective in precipitating an earlier settlement for a higher amount. The responses to such interrogatories can also support motions for summary judgment based upon either their confirmation of damaging facts or their obvious evasiveness.

Coming Next: The third article in this trilogy will examine **Myth #3: I don't need (or can't afford) an expert to assist me in analyzing a potential products liability case.**

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.

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](mailto:Art@LawsuitsConsultant.com) or go to my [website](http://www.LawsuitsConsultant.com/case-merit-evaluation) to initiate your Case Merit Evaluation:

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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?

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