



E. Paul Dougherty, Jr.

Partner

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Paul Dougherty has been defending product liability and general liability cases for more than 25 years. His legal practice focuses on product liability defense of products and insurance matters and commercial negotiations. Paul relocated to Los Angeles after five years working with the firm's clients in Tokyo. Prior to his tenure in Japan, Paul was a trial lawyer in the firm's New York office, taking to verdict more than a dozen cases involving both domestic and foreign clients.

Paul's domestic and foreign experience has endowed him with a seasoned perspective on the clients' needs and with the judgment to craft efficient, reasonable and cost-effective resolutions to disputes and legal issues. His second-degree (*Ni-dan*) black belt in Japanese karate reflects the focus, discipline and concentration Paul extends to his clients. He is a member to the firm's Attorney Education and Development Committee and the Los Angeles office Operations Group.

General / Product Liability / Commercial

Paul represents both U.S. and foreign clients in disputes in U.S. litigation involving tires; bicycle equipment, including crank-arms and seats; diagnostic medical equipment; consumer products, including bicycle components and paper shredders; industrial products, including rail cars; toilets; power tools; video arcade games; electrical components; and home appliances. Paul has represented clients in numerous voluntary CPSC recalls and provides advice on contractual disputes and negotiations, liability avoidance and prevention.

Commercial / Regulatory in Asia

Paul lectures and travels throughout Japan, China and Taiwan. He makes advisory presentations on the American legal system in general, and product liability litigation and prevention in particular before major insurance, manufacturing and industry groups. He continues to represent Asian clients from Los Angeles. Paul was formerly admitted to

Services

- Asia
- Complex Tort & General Casualty
- Product Liability, Prevention & Government Compliance
- Railroad
- Canada

practice in Japan as a *Gaikokuho Jimu Bengashi*.

Education

- Villanova University School of Law (J.D., 1981)
- Georgetown University (B.S., 1978)
 - cum laude

Bar Admissions

- California
- New Jersey
- New York

Court Admissions

- U.S. District Court, District of New Jersey

Representative Matters

National Counsel Experience

Secured favorable resolution of a five-count fraud claim on behalf of an international travel agency. Convinced plaintiffs to honor forum selection clause in highly defense-receptive Bucks County, Pennsylvania and subsequently to dismiss the entire lawsuit with prejudice.

Passenger and light truck tires, National Defense of two Asia tire manufacturers

National coordination of Japanese diagnostic medical equipment products defense

Coordination of several Chinese equipment manufacturers' claims and product liability suits in the United States

CPSC counsel for several manufacturers in the implementation of CPSC "Fast Track" recalls.

Obtained summary judgment when retained to represent a major Japanese bike component manufacturer in defense of a component that had been the subject of an earlier CPSC mandatory recall. The plaintiff sued the American subsidiary that was only involved in after-market support, but did not design or manufacture the product. We successfully argued that this company was not in the chain of distribution and secured a dismissal of the American company, as the plaintiff tried to secure service over the Japanese manufacturer under the Hague Convention. The court kept the plaintiff to a strict time frame for trial since we had promptly notified the plaintiff of the correct manufacturer early in the case. His lack of diligence secured our client a further and final dismissal.

In a recent Ninth Circuit victory, the Court of Appeals affirmed the Nevada Federal Court's summary judgment in favor of our client, the manufacturer of a blood pressure cuff monitor. The plaintiff alleged that he ceased his use of blood pressure medications in reliance on favorable readings of the device, which he claimed were faulty, allegedly resulting in a stroke to the plaintiff. We successfully argued that the plaintiff had failed to present expert proof of a defect or causally connect our device to his stroke. His own doctor testified that his medically ill-advised ceasing of his medications and holistic meds caused his stroke. The Ninth Circuit affirmed summary judgment, but did struggle with the issue of Nevada law on whether expert testimony was needed to prove defect. The U.S. Supreme Court denied *certiorari*.

Nominal (less than cost of defense) resolution in several products suits involving bicycle pedals and paper shredder cases premised upon claims of design defects and failure to warn.

Secured a dismissal of a Chinese handlebar stem manufacturer in Texas Federal Court. The handlebar maker sued our clients, the U.S. distribution subsidiary of the Chinese manufacturer. While they were in the chain of distribution, they did not sell to Texas (only to two U.S. distributors. After jurisdictional discovery, including the deposition of our client's president, the federal court agreed that under the recent USSC decision in *Narcisco v McIntyre*, our client had not purposefully availed itself of doing business in Texas and affirmed our client's dismissal.

California dismissal of a Japanese industrial wheel-forming manufacturer.

Full dismissal of radiation exposure cases on behalf of our client, a Japanese diagnostic medical device manufacturer.

Commercial advice for several Asian clients, including warranty language; contract drafting, business negotiations, dealer agreements and commercial leases.

Publications

February 1, 2021

Reinforcing Purposeful Availment

Client Wins

Los Angeles and Phoenix Join Forces to Prevail in Jurisdictional Dispute for Chinese Tire Manufacturer

Partners Paul Dougherty (Los Angeles, CA), Greg Lee (Los Angeles, CA), and Taylor Allin (Phoenix, AZ) with Shirley Jin (Of Counsel-Los Angeles, CA) prevailed on a Rule 12 motion to dismiss in the U.S. District Court for the District of Arizona on behalf of a Chinese tire manufacturer based on lack of personal jurisdiction. The lawsuit arose from a highway rollover accident in which the rear tire of the plaintiff's motorcycle, which had

been manufactured at the client's plant in Jiangsu, China, experienced a tread/belt separation. The plaintiff argued that the Chinese client had sufficient minimum contacts with Arizona based on, among other things, marketing and sales throughout the United States, a website, authorized retailers in Arizona, and the issuance of a recall by a domestic subsidiary that allegedly impacted Arizona. After taking the motion to dismiss under submission for more than nine months, the district judge ultimately agreed with the defense team that the plaintiff had failed to meet his burden of establishing sufficient minimum contacts with Arizona, and granted their motion to dismiss without leave to amend.