



# LIFE SCIENCES

360°



## ABOUT OUR PRACTICE

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For over 25 years **Morris Polich & Purdy** has specialized in pharmaceutical, medical device, biotechnology and nutritional supplement representation. Our attorneys and support staff have vast depth and experience in this ever-evolving and expanding field. Our experience is diverse, ranging from service as national counsel in mass-tort litigation involving thousands of plaintiffs, to the handling of a single action involving a single plaintiff. Our clients are equally diverse, including an array of Fortune 500 companies with numerous products lines, as well as newer companies with only one marketed product. In addition to litigation, we provide our clients with counseling and risk management services. Over the years we have developed a network of lawyers throughout the U.S. and Europe who are available to assist our clients in Life Science matters.

We provide exceptional service on every case, regardless of the size of the case or the client. We recognize that each case presents individual challenges – every case can be of tremendous importance to a product's future, and that each case within a mass tort situation still needs individualized analysis and strategy. We carefully staff each case to provide the appropriate levels of expertise and support and consistently review staffing needs as situations evolve.

We have an in-house training program designed to provide education and expertise to our attorneys, and we routinely notify clients of legal developments in the field. Our attorneys are always mindful of the important interplay between litigation and regulatory affairs, as well as the business decisions that must often guide the handling of litigation. We work hard to learn our clients' products and business, and keep abreast of developments in their industry. We assist our clients by focusing not only on the needs of the present litigation, but on the impact of litigation on the client's long-term goals and strategy, and the importance of continuous risk management.

## A CROSS SECTION OF OUR EXPERIENCE

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For pharmaceutical companies, for example, we have handled matters involving clinical trials, marketed prescription and non-prescription medicines and active pharmaceutical ingredients (APIs) for the treatment of disorders including, arthritis, depression, psychosis and other mental health conditions, pain, inflammation, diabetes, hormonal disorders, infections, obesity, multiple sclerosis, Alzheimer's disease, osteoporosis, pancreatic disorders, and a variety of other diseases, as well as bowel cleansing solution, cold medications, appetite suppressants, and herbal and nutritional supplements.

Our experience with medical devices is equally broad. We have represented clients in cases involving robotics, silicone breast implants, intraocular lenses, dental implants, human and animal tissue processing and implantation, dermal fillers, latex gloves, lasers, internal and external cardiac devices, heart pumps, radiation and x-ray devices, spinal stabilization devices, life support monitors, apnea monitors, surgical warming devices, respirators, microcatheters, infusion pumps, orthopedic devices, obstetric devices, prosthetic devices, cold therapy devices, surgical instruments, surgical adhesives, wheelchairs, RF and hydrothermal ablation devices, neurostimulators, stents, contact lens disinfecting solutions, occlusion balloon catheters, cochlear implants, physical therapy equipment, and other diagnostic equipment.

In the biotech field, we have provided counseling and litigation services to the leading biotech companies in the country, regarding medicines that treat a variety of diseases, such as arthritis, as well as conditions that affect the blood and internal organs.

In the field of nutritional supplements we represent manufacturers, contract manufacturers and distributors of ephedra, cold remedies, herbal remedies and supplements, sports and performance supplements, and weight loss products.

By way of example, we are currently national counsel in matters involving pain pumps, infusion pumps, excimer lasers, robotic surgical devices, dermal fillers and obstetric devices. We are also involved in the current litigation involving VIOXX, Fosamax, Quinine, oral sodium phosphate solution, hydroxycut and Thimerosal. Here are more specific examples of our experience:

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- We serve as national counsel for a company that designs and manufactures robotic surgical devices. As national counsel, we partnered with the client to establish an overall risk management plan, as well as to supervise and coordinate litigation across the country.
  - We also provide counseling and representation to one of the leading dermal filler makers. Our work includes not only litigation but also advice and counseling relating to labeling, marketing materials, package inserts, and other loss prevention issues.
  - We were national coordinating counsel for the manufacturer of active pharmaceutical ingredients (APIs) in litigation relating to the narcotic pain medication OxyContin.
  - We have been national counsel for a manufacturer of excimer lasers for refractive surgery, coordinating all products liability litigation. We were successful in securing the early dismissal of our client in these cases.
  - We served as national counsel for a manufacturer of latex gloves, and were solely responsible for coordinating litigation in all state and federal courts. To minimize the impact of what quickly became a mass tort, and in recognizing product identification as a threshold issue, we developed procedures for early identification of manufacturers and automatic dismissals where plaintiffs could not establish exposure to our client's product. These procedures resulted in dismissal of our client from over 50% of its cases before significant case-specific costs were incurred.
  - We serve as coordinating counsel for the manufacturer of polymer-based dermal fillers in statewide product liability litigation brought by dozens of patients against the company and its former officers and employees.
  - In silicone breast implant litigation, the Firm acted as regional counsel for The Dow Chemical Company, directly handling more than 2,500 California cases and overseeing 3,500 additional cases in nine western states. We noted early-on that the issue of shareholder liability would be the most significant for our client, and positioned the litigation accordingly. We were ultimately able to obtain summary judgment in all cases, which was affirmed by the California Supreme Court in a landmark opinion on the extent of a shareholder's "duty" and the applicability of "negligent undertaking."
  - We were retained as national counsel for a manufacturer of obstetric devices in several cases involving deaths and serious injuries suffered during delivery. We were able to obtain summary judgment or voluntary dismissal in the vast majority of cases, and have successfully resolved others for amounts representing well under 10% of the total settlement funds.

## A CROSS SECTION OF OUR EXPERIENCE (CONTINUED)

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- We represented a manufacturer of a computer-driven device used by pharmacists to compound parenteral nutrition bags for patients. The case involves the death of a premature infant after being given over 10,000 times the proper dose of zinc. It has received national media coverage, including a segment on 20:20.
- We represented a national distributor of pharmaceuticals in mass torts including fen-phen, PPA, Baycol, Rezulin and Vioxx. In the PPA litigation, we successfully lobbied for the Court to recognize the distinction between manufacturers and distributors, and were selected by the defense group to serve as liaison counsel to the plaintiffs, the manufacturers, and the Court. Our efforts resulted in the dismissal of most cases against our client, as well as an acceptance by manufacturers of our client's tender of defense. Those efforts have streamlined the acceptance of our client's tenders in subsequent mass-tort situations.
- We have obtained summary judgments for the world's largest pharmaceutical company in cases alleging that its corticosteroid products caused avascular necrosis of the shoulders and hips.
- We successfully represented the same pharmaceutical company in California alleging that its new antibiotic medication caused optic and peripheral neuropathy.
- We currently act as California counsel to a manufacturer of oral sodium phosphate solution in litigation filed throughout the country on behalf of hundreds of plaintiffs alleging that OSPS caused serious and irreversible renal failure.
- An international biotech company retained us to represent it in its first-ever products liability case, and we were able to obtain summary judgment less than four months after the complaint was filed. We continued to serve as coordinating counsel, and provide advice regarding actual and threatened litigation involving clinical trials and marketed products throughout the United States and Europe.
- A defense verdict was obtained in a case against a manufacturer of products for stress urinary incontinence. We were able to demonstrate to the jury that the product was not defective despite the fact that it had been withdrawn from the market, and the Court of Appeal affirmed the judgment.
- We represented a manufacturer of pacemakers and defibrillators in several cases alleging injuries or wrongful death from device malfunction. In each case we have been able to obtain summary judgment for our client, on grounds ranging from an inability to prove causation, to violation of the statute of limitations.

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- Several manufacturers of lasers for therapeutic and cosmetic procedures have retained us to act as their California counsel in cases alleging significant burns. We have developed an intricate knowledge of the issues presented by burn cases, as well as the small community of experts with specialized knowledge in this field.
  - We represented several tissue banks that process and preserve human and animal tissue for human implantation. Our work resulted in the issuance of an unpublished opinion from the California Court of Appeal which confirmed that tissue banks, like blood and sperm banks, provide a service, not a manufactured “product,” and are therefore exempt from product liability claims, even though they are partially regulated by the FDA.
  - We represented a manufacturer of minimally invasive surgical equipment in class action litigation related to specimens it received from the UCLA Willard Body Program. We recently prevailed on motions and received early dismissals of our client from all cases.
  - We successfully obtained a dismissal of a pharmaceutical manufacturer at the pleading stage in a case involving claims of serious neurological injuries arising out of a clinical trial.
  - We successfully obtained summary judgment for a dietary supplemental distributor in a case involving allegations of birth defects and severe gastrointestinal injuries arising from a pregnant plaintiff’s ingestion of a Japanese algae product.



**Morris  
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