

Choosing The Right Attorneys And Experts For Your Fire Litigation

All corporate counsel responsible for managing litigation understand that their decisions have a direct impact on their company's bottom line. When retaining outside counsel and experts for product and fire defense, choosing the right litigation team can have a critical impact on whether the case will be successfully defended and whether that success will come at the right price.

For product liability claims involving fire damage, the attorneys and experts must have a thorough understanding of the product, as well as an intimate knowledge of fire science. While product expertise can be developed through a cooperative effort with the manufacturer, retaining counsel or experts lacking experience in fire science can drastically reduce your chances of defeating the claim.

The selection of an attorney to defend product liability cases is one of the most important decisions corpo-

rate counsel can make. Since the attorney often hires the experts directly, either with or without assistance from corporate counsel, the attorney must have expertise in fire science to be in a position to select an effective expert. In reality, most product liability attorneys handle no more than one or two fire cases in their entire career. Product liability defense lawyers specializing

in fire cases must undergo fire science training and education prior to defending a product liability fire case. A company should not bear the cost of educating their attorney on fire science.

Prior to hiring an attorney for your next fire litigation claim, question that lawyer on their fire science training or courses attended; fire cases tried to verdict; and *Daubert* challenge hearings conducted or defended. For good measure, throw in a couple of questions geared towards the attorney's understanding of the scientific method as discussed in *NFPA 921: Guide for Fire and*

Explosion Investigations, and of "competent" ignition sources. If the attorney cannot provide solid responses, there is little hope that he or she will be in a position to hire a competent expert, conduct effective depositions of opposing experts, or defend your case adequately.

When selecting your fire experts, it is important to remember that all "fire experts" are not created equal. All too often, fire experts are chosen without being questioned about their qualifications and credentials, or their knowledge of fire science. Fire litigation is expert-intensive and focused on science rather than subjective opinions, therefore, a potential expert should be able to demonstrate an understanding of and familiarity with the principles in *NFPA 921*.

Experts should be able to demonstrate an understanding of these fire science issues: "competent" ignition sources; ignition theory and the ignition properties of fuels; fire spread; and the scientific method. Finally, experts should be questioned on their experience with *Daubert* challenges to their credentials or opinions. An expert lacking a solid foundation in the principles of fire science can cost a company a great deal of time and expense, especially if opposing counsel has a working knowledge of those very principles.

The bottom line is that product liability fire cases require specialized knowledge and training on the part of both the attorney and the expert. Since your company's financial position can be greatly affected by litigation, an informed decision on the retention of your litigation team will serve your company well.

Brian P. Henry is a Managing Partner of Tedford & Henry, LLP one of a select few law firms in the United States which devotes a substantial portion of its practice to fire science litigation. Based in Hartford, Connecticut, Tedford & Henry represents clients nationwide, litigating exacting fire cases with precision and expertise.

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