

# TOXIC TORT CRISIS MANAGEMENT AND STRATEGIC RESPONSE

## SIDLEY

Crises arising from events such as environmental chemical releases or spills, fires or explosions, derailments, and crashes can have a lasting reputational damage and may even threaten the future of a company if not managed properly. Sidley's Toxic Tort Crisis Management team has decades of experience representing companies in highly sophisticated toxic tort, climate change, chemical exposure, and product liability matters, having handled hundreds of toxic tort lawsuits in dozens of states (including multi-national). Our Toxic Tort Crisis Management team offers vast experience in multijurisdictional and multi-plaintiff cases, class actions, consolidated state proceedings, and multidistrict litigation. While we often litigate and try individual cases, clients rely on us for guidance in implementing successful strategies for pre-trial resolution of multiple cases or claims arising out of a single incident.

Sidley has a proven track record of helping clients manage toxic tort crises requiring the quick action, strategic insight, and litigation know-how critical to protecting a business and its reputation. Major companies and their boards seek our counsel in emergencies because we are able to quickly assemble the right team to provide thoughtful, seamless advice for complex compliance, regulatory, and litigation matters. Harnessing our firm's global resources, we deploy swift, well-planned responses to urgent challenges while protecting a company's position in the long term.

## Comprehensive, Multidisciplinary Experience

We have decades of experience serving as our clients' first-response team in a range of public crises, including:

- Responding to internal investigations, as well as investigations by the EPA, TSB, CSB, DOJ, NHTSA, SEC, state attorneys general, and other oversight bodies
- Advising boards, as well as audit and special committees
- Counseling on compliance, governance, and litigation risks, as well as potential exposure arising from alleged misconduct, investigative findings, and negative publicity
- Responding to environmental accidents
- Preparing for litigation, including risk assessments and retention of key opinion leaders
- Defending clients in mass tort litigation and multidistrict litigation (MDL) involving product liability, product defects, derailments, air crashes, industrial accidents, and toxic tort exposures

### SIDLEY PROTECTS CLIENTS ON MULTIPLE FRONTS

- Business Interests/Reputation
- Public/Media Relations
- DOJ/FBI/Law Enforcement
- Litigation/Settlement/Alternative Resolution
- SEC
- Board Inquiries/Shareholder Activism
- Congress
- Class Action/MDLs/State Coordinated Actions
- Government Agencies

### NATIONALLY RANKED FIRM FOR PRODUCT LIABILITY & MASS TORTS: THE ELITE AND ENVIRONMENTAL LAW

— CHAMBERS USA 2023

### TIER 1 RANKING FOR PRODUCT LIABILITY AND RECALL

— BENCHMARK LITIGATION 2023

- Responding to congressional inquiries or subpoenas
- Managing legal, policy, political, or public relations considerations related to an investigation or event
- Addressing securities disclosure issues
- Resolving claims through individual settlements or global resolution processes, including class settlements

## Why Sidley?

We understand the level of trust that is required to handle a complex toxic tort crisis. Our lawyers know how to balance internal and external effects, relationship dynamics, and optics. Our team includes a number of former U.S. federal and state prosecutors and officials, including several lawyers who served in the Office of White House Counsel and in other senior positions at government agencies. With firsthand knowledge of how government agencies conduct investigations and prosecutions, we are able to help clients navigate these processes efficiently and effectively, and we have successfully participated on behalf of our clients at hearings and negotiations in front of numerous agencies and regulatory bodies.

Our team has provided on-the-ground legal counsel for many significant toxic tort incidents, including pipeline leaks, refinery explosions, and fires at chemical plants and other industrial facilities. Recent examples of our work include representing:

- Sterigenics, as it confronts litigation, regulatory, and legislative threats arising from the use of ethylene oxide as a sterilizing agent for millions of critical medical devices and surgical kits. Sidley is providing strategic crisis management support, preparing and implementing toxic tort and environmental litigation defense strategy, and counseling the client in its approaches to regulatory agencies. The firm obtained a full defense victory in a trial in Cook County, where Plaintiffs claimed that exposure to ethylene oxide led them to develop cancer and other injuries, leading to a settlement of all 800+ claims filed in that jurisdiction.
- GE, as national coordinating counsel and trial counsel in asbestos litigation. For more than three decades, we have assisted GE in obtaining dozens of summary judgments, dismissals, and trial victories extricating GE from numerous asbestos cases in this long-running litigation.
- Several global companies facing asbestos litigation and mesothelioma claims based on allegations of exposure to asbestos-containing talc in cosmetics products.
- A refinery in an Indiana class action seeking damages for personal injuries, property devaluation, and medical monitoring following a flood that caused groundwater infiltration into homes. After a lengthy jury trial, Sidley secured a defense verdict, which was preserved through an appeals process ending in the U.S. Supreme Court.
- Superior Refining Company and Husky Energy, in litigation arising out of a refinery explosion. Sidley was onsite within hours, handling immediate crisis management and responding to government inquiries and investigations. Sidley also assisted in handling pre-litigation claims and successfully defended Superior in class action and multi-plaintiff litigation in which onsite personnel, contractors, suppliers, and community members claimed emotional distress, personal injuries, economic damages, and property damage.
- A manufacturer of products used in *in vitro* fertilization procedures, in nationwide litigation alleging that the products were toxic and destroyed embryos and gametes, including claims for personal injury, lost property, emotional distress, and wrongful death. Following the company's recall of the products, Sidley has been coordinating not only the nationwide response, but also the company's international response around the world.
- Defending companies sued in their first cases alleging asbestos exposure from talc.

### "LAW FIRM OF THE YEAR" IN ENVIRONMENTAL LAW

— U.S. NEWS – BEST LAWYERS® "BEST LAW FIRMS" 2023

"Proven ability in a range of...toxic tort cases, including matters with a cross-border element."

— CHAMBERS USA 2023: NATIONWIDE – PRODUCT LIABILITY & MASS TORTS: THE ELITE

"Draws on firmwide resources in civil litigation and regulatory enforcement to provide a full-service approach to complex product liability and consumer class action disputes. Particular proficiency acting as coordinating counsel in large-scale multidistrict litigation."

— CHAMBERS USA 2023: NATIONWIDE – PRODUCT LIABILITY & MASS TORTS: THE ELITE

### CONSISTENTLY RANKED AMONG TOP FOUR FIRMS FOR CRISIS MANAGEMENT IN THE UNITED STATES AND GLOBALLY.

— CHAMBERS CRISIS & RISK MANAGEMENT 2023

"Sidley is brilliant. They are easy to work with, practical and strategic. They have great experience dealing with all aspects of government investigations and crisis management, e.g. media relations and internal communications. So it is really everything."

— CHAMBERS CRISIS & RISK MANAGEMENT 2023: GLOBAL

### SHORTLISTED BY CHAMBERS USA FOR "LAW FIRM OF THE YEAR" 2024 IN ENVIRONMENT

"Sidley Austin LLP has an eminent environmental team advising household names on complex compliance and regulatory issues... Calls upon a formidable array of trial and appellate experts to handle environmental litigation claims, including defending regulatory enforcement."

— CHAMBERS USA 2023: ILLINOIS – ENVIRONMENTAL