



## PRACTICE LITIGATION

### Class Actions

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#### OVERVIEW

We have significant class action experience. Our lawyers have both prosecuted and defended class action claims. For example, we represented a landfill operator in a toxic tort lawsuit pressed by scores of plaintiffs seeking more than a billion dollars in damages and obtained judgment on all claims. We also represented the State of Indiana in its successful tobacco litigation, in which the state obtained more than \$4 billion. In two separate matters involving air emissions we defended a manufacturer against class odor claims and represented a class prosecuting claims against a different manufacturer for damage to their homes.

#### EXPERIENCE

- *Lindsey v. DeGroot*, 898 N.E.2d 1251 (Ind. Ct. App. 2009) (Determined Indiana's Right to Farm Act was constitutional and applied to bar the nuisance claim of a neighbor against DeGroot Dairy).
- *The Sierra Club v. Gates*, 499 F. Supp. 2d 1101 (S.D. Ind. 2007) (successfully defended action which sought to enjoin continuing shipments of the product of the hydrolysis of the chemical warfare agent VX from a depot in Indiana to Veolia Environmental Service's incineration facility in Texas)
- *Pound v. Airosol Co., Inc.*, 316 F.Supp.2d 1079 (D. Kan. 2004) and 498 F.3d 1089 (10th Cir. 2007) (obtained summary judgment holding competitor's product, which contained ozone-depleting substances violated the Clean Air Act and establishing a competitor's right in the Tenth Circuit to recover attorney fees in bringing a successful citizen's suit under the Clean Air Act)
- *Raybestos Prods. Co. v. Indiana Dept. Env'tl. Mgmt.*, Cause No. 49D12-0209-PL-001553 (Marion County Superior Court—summary judgment July 6, 2004, June 12, 2006)



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judgment (\$11.6 million) & October 30, 2006 (\$4.7 million), (obtained a \$16 million judgment against the Indiana Department of Environmental Management for reneging on an agreed order for a risk-based PCB cleanup, reversed on appeal)

- *Port Comm'n v. Consolidated Grain & Barge Co.*, 701 N.E.2d 882 (Ind. Ct. App. 1998) (preliminary injunction regarding use of rail and port facilities)
- *Natural Gas Odorizing, Inc. v. Downs*, 685 N.E.2d 155 (Ind. Ct. App. 1997) (duty to warn gas users)
- *Town of Montezuma v. Downs*, 685 N.E.2d 108 (Ind. Ct. App. 1997) (negligence per se claims involving a gas explosion)

[Include significant environmental and insurance coverage cases?]