



Paul R. Smith

Of Counsel

psmith@larkinhoffman.com

952.896.3318

Paul R. Smith is a shareholder and former president of Larkin Hoffman. He previously served as the firm's general counsel, a member of the firm's board of directors, and chaired the Business and Commercial Litigation practice group. He has decades of civil trial experience focusing on helping businesses avoid product liability risks and litigation; resolve business disputes; protect their intellectual property; and ensure that their insurance policies provide the coverage and protection they purchased. His extensive trial and appellate experience in federal and state courts provides valuable insight when assessing risk or resolving claims.

Paul is a National Board of Trial Advocacy Certified Civil Trial Specialist, a Minnesota State Bar Association Certified Civil Trial Law Specialist and a member of the invitation-only American Board of Trial Advocates (ABOTA), an association of premier trial attorneys throughout the country. He has achieved the highest possible Martindale-Hubbell rating for legal ability and adherence to professional standards of conduct, ethics, reliability, and diligence.

Representative Experience

Commercial, Manufacturing & Business Disputes

- Represented a building owner who sought to recover extensive repair costs resulting from a service provider's failure to undertake agreed upon preventative maintenance to building infrastructure.
- Netgain – Counseled and defended business
- Represented an international manufacturer and distributor of food products in a contractual dispute with a commercial processor of beans who was unable to provide product which satisfied the manufacturer's quality requirements.
- Assisted a highly compensated long-term employee involved in a dispute with his employer regarding the terms of a decade's old employment agreement.
- Served as lead trial counsel for a CATV company in a trial against a buyer of the cable television franchises who failed to consummate the purchase of all franchises pursuant to the terms of a Franchise Purchase Agreement. The CATV company prevailed after a lengthy jury trial.
- Lead counsel representing a commercial equipment manufacturer who sought to

Services

- Litigation
- Appellate Advice & Advocacy
- Business Litigation
- Competitive Practices/Unfair Competition
- Construction and Surety
- Construction Litigation
- Intellectual Property and Technology
- Intellectual Property and Technology Litigation
- Manufacturing
- Patents
- Product Compliance and Liability
- Insurance Recovery and Advice

recover damages from the designer and purchaser of a specialized commercial application product for breach of a manufacturing agreement.

- Represented an appliance manufacturer seeking recovery from an electronic component parts manufacturer in a dispute about the cause of wide-spread product failures within a discrete line of specialty appliances.
- Assisted a commercial construction products manufacturer when a former employee started a competing business using confidential and proprietary information obtained from the manufacturer.
- Successfully defended at trial a contractor and utility who were alleged to have caused extensive damage to a valuable oriental art collection.
- Helped a commercial product manufacturer who sold construction equipment to a company involved with the failed Baha Mar construction project in the Bahamas when the purchases asserted that the equipment was defective.
- Counseled a professional association in a malpractice action involving the work of a former employee.
- Represented a plaintiff in a multi-party dispute over the dissolution of a mining equipment company.

Product Liability

Paul represents product designers, manufacturers and sellers in product liability claims in federal and state courts throughout the United States. He has experience in all stages of product liability litigation across a wide range of industries and product lines. He is focused on developing beneficial partnerships between product designers/manufacturers and legal counsel to improve risk assessment; create more effective warnings and product instructions; and encourage early incident investigation to avoid or resolve claims before litigation occurs.

- Defended a variety of manufacturers and distributors who were alleged to have violated California's Safe Drinking Water and Toxic Enforcement Act (Proposition 65) involving a variety of product from key chains to watch bands and from HDMI cables to bicycle accessories.
- Assisted a manufacturer in responding to a request for information from the U.S. Consumer Product Safety Commission regarding a children's educational product.
- Assisted the seller of furniture products with an analysis of product defect, notification to customers and interaction with the U.S. Consumer Product Safety Commission regarding the recall of a consumer product.
- Defended a component parts manufacturer in a wrongful death lawsuit involving a city employee who was killed when the drive chain on a roller broke causing the roller to roll backwards down an incline and tip over.
- Lead trial counsel in a product defect case involving a construction worker who suffered extensive traumatic burn injuries which he alleged were the result of a defective product. The jury found that the product was not the cause of the injuries.
- Lead trial counsel in a wrongful death suit representing a manufacturer whose product allegedly causing an explosion. The jury concluded that the product was not defective.
- Represented a component parts manufacturer in a dispute with an off-road vehicle manufacturer investigating the component parts connection to product defect claims against the vehicle manufacturer.
- Defended a manufacturer in a product defect lawsuit in which the plaintiff claimed that a defective product caused him to be burned on his face and arms.
- Defended a commercial product manufacturer in a product liability lawsuit involving a plaintiff who was badly injured. Investigation concluded that the product had been altered when a safety device was bypassed.

- Defended multiple related entities in a wrongful death product liability action involving an allegedly defective hoist.
- Lead trial counsel in a product liability suit involving a product designer and manufacturer who were sued when a product collapsed pinning plaintiff underneath.
- Represented a commercial product manufacturer in a California wrongful death lawsuit involving product liability and work site safety claims asserted against various project contractors when a worker fell through a skylight.
- Defended a commercial product manufacturer in a lawsuit involving product liability and work site safety claims on a public construction project in New York City.
- Assisted a retailer with a recall plan when they learned that cartridges, they sold were misfiring creating flaming showers of powder, unpredictable ejections or jamming.
- Defended a retail automobile service provider who was alleged to have been negligent when mounting tires which allegedly detached from the rim causing the vehicle to roll. Investigation established that the detached tire was the result of a loss of control of the vehicle.
- Lead trial counsel defending a commercial product manufacturer in a case involving an individual whose neck was fractured when a product fell striking the worker. The jury concluded that the product had been altered by the plaintiff's employer.
- Lead trial counsel in a case involving a manufacturer whose product was alleged to have kicked back causing the plaintiff to fall off a building roof.
- Acted as lead trial counsel on behalf of a manufacturer sued in Federal Court in Massachusetts for an allegedly defectively designed and manufactured product which caused significant burns. The jury found in favor of the manufacturer.
- Represented manufacturer during the investigation of an explosion and fire at a large construction project in Trinidad.
- Defended the importer and retail seller of a consumer construction product manufactured overseas which failed during use causing the death of the user.
- Successfully defended a commercial product manufacturer whose product was alleged to have started a fire which resulted in the complete destruction of a motel. Established that the product could not have caused the fire and identify the likely cause.
- Defended product manufacturer in a product defect action in which plaintiff asserted that a defective design caused hot liquid to escape causing extensive burns to plaintiff's leg.
- Defended a non-profit organization in a wrongful death action involving claims of negligence and product liability stemming from an accident involving a snow groomer.

Insurance Coverage

- Represented a business in a dispute regarding coverage pursuant to an Excess Risk Group Insurance policy.
- Assisted a building owner in a coverage dispute involving a building damaged and later condemned by the city resulting in lost rental income when the tenant was forced to vacate the premises.
- Successful established a client's entitlement to the proceeds of a Life Insurance policy which was disputed by numerous alleged beneficiaries.
- Represented a business in a coverage action to established that their insurer had failed to defend them in an insured claim forcing the insured to defend and resolve the underlying action on their own. Established that the insurer had a duty to defend and successfully recovered attorneys' fees paid in the underlying litigation; pre-judgment interest on attorneys' fees and costs; settlement payments made in the underlying litigation; and attorneys' fees expended in the coverage action.
- Lead trial counsel in an insurance coverage case involving valuable artwork which was stolen from a repossessed home. The case involved contractual interpretation issue as

to whether the stolen artwork was a fixture or personal property.

- Assisted a building owner who sought to recover damages when their parking ramp retaining wall collapse as a result of the nearby construction project.
- Represented a client in a coverage dispute with their insurer when the insurer asserted, post-verdict, that it had no duty to apply for or furnish an appeal bond for the insureds.
- Assisted client in establishing the extent of loss and recovering insurance proceeds following the complete destruction of a building following a fire caused by a tenant.
- Represented client in negotiations with their insurer over the proper calculation of business income damages resulting from the complete destruction of client's building and business due to a fire.
- Advised a building owner who purchased and installed a defective roofing product in negotiating a remediation plan.
- Counseled client on various insurance coverage issues stemming from a professional malpractice claim being asserted against the professional association.
- Assist client in recovering restoration costs from their insurer for damages to an apartment complex resulting from broken fire suppression lines.

Intellectual Property

- Lead trial counsel defending a product manufacturer through trial and appeal to the Federal Circuit in a patent infringement action. Following an appeal to the Federal Circuit Court of Appeals the court concluded that the products did not infringe the patent.
- Lead trial and appellate counsel representing a product manufacturer seeking a declaration of invalidity and/or noninfringement of a competitor's patent which had been successfully used to exclude the client from the market. Investigation established and the Federal Circuit Court of Appeals concluded that the patented product had been invented by someone other than the patent holder. Judgment was entered in favor of the client on both invalidity and noninfringement grounds.
- Represented a product manufacturer in Arizona who was alleged to be violating a competitor's patent. Negotiated a favorable resolution.
- Represented patent holder of an industrial safety product whose patent was being infringed by numerous competitors.

Education

- Hamline University School of Law (J.D., 1986)
- Gustavus Adolphus College (B.A., 1981)

Bar/Court Admissions

- Minnesota
- U.S. District Court, District of Minnesota
- U.S. District Court, Eastern District of Wisconsin
- U.S. Court of Appeals, 8th Circuit
- Federal Circuit Court of Appeals

Professional Affiliations

- American Board of Trial Advocates
- American Bar Association
- Federal Bar Association

- Defense Research Institute
- Hennepin County Bar Association
- Minnesota State Bar Association
- Minnesota Defense Lawyers Association

Recognition

- Super Lawyer,[®] Super Lawyers magazine, 2014-present

Community

Paul is deeply rooted in the legal community and is active in a number of legal associations including the Litigation Section of the American Bar Association, the Federal Bar Association, the Minnesota State Bar Association, the Hennepin County Bar Association, Defense Research Institute (DRI), and the Minnesota Defense Lawyers Association.