

WINNING AN UPHILL BATTLE FOR A CHEMICAL MANUFACTURER IN A COMMON ISSUES MASS TORT ACTION.

Our Client's Challenge

Our client, one of the country's largest chemical manufacturers, faced a mass tort action along with eleven other defendants brought by 1,675 coal miners in Bessemer, Alabama. The plaintiffs alleged they suffered injuries from exposure in the mines to methylene diphenyl diisocyanate (MDI) in products made by the defendants.

All 12 defendants faced an uphill battle as opposing counsel wanted to use 25 hand-picked plaintiffs in a common issues trial to establish liability for the entire case. This would even apply to plaintiffs whose cases did not go before the jury. Once liability was established, opposing counsel would then only have to prove causation and damages. The initial judge for the case allowed the plaintiffs to proceed with this approach.

Our Approach

Coordinating our efforts with other defendants, we took an aggressive approach against the common issues trial tactic. We made multiple mandamus briefings to the Alabama Supreme Court and ultimately succeeded in consolidating the cases and transferring them to another jurisdiction — and a different judge.

The Result

After multiple hearings before the new judge, it became apparent the cases would not be handled as a common issues trial — a significant victory for all defendants, including our client.

The consolidated cases were soon settled on terms that were acceptable and favorable to our client.