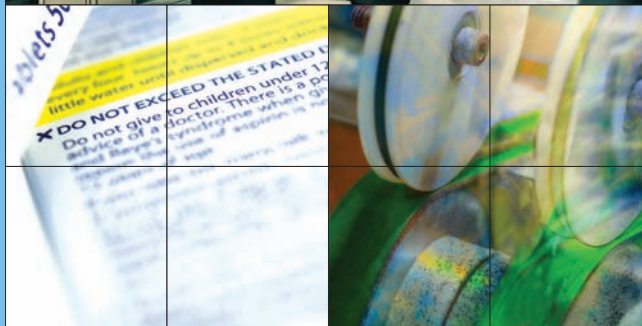


# THOMPSON HINE

Risk Management Consulting



ATLANTA

CINCINNATI

CLEVELAND

COLUMBUS

DAYTON

NEW YORK

WASHINGTON, D.C.



## Overview

*Thompson Hine's Risk Management lawyers help companies identify and develop practical ways to limit their exposure to product liability claims. When an incident occurs involving a company's product, the company's manufacturing and business practices are often scrutinized, because manufacturers are legally responsible for many aspects of the products they create. Education and prevention are essential to avoid becoming embroiled in a "bet-the-company" case.*

*Our Risk Management lawyers advise and counsel companies on the most prudent strategies to eliminate, reduce, or manage their product liability exposure and other risks. We use our experience with product liability claims and knowledge of potential losses and risks to implement proactive measures **before** a claim occurs.*

*In addition to many other risk management services, we conduct product and manufacturing audits; prepare product literature and warnings; implement plans to transfer risks contractually; counsel on insurance coverage issues; develop effective record-keeping practices; and prepare and assist companies in responding to crises and accidents.*

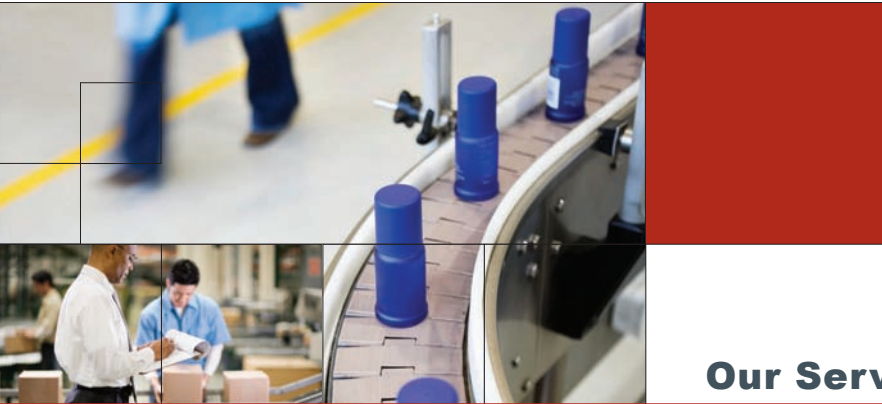


## Why Consider Thompson Hine for Risk Management?

Product liability claims are costly, time-consuming, and potentially damaging to a company's reputation. Some companies may never recover from the negative publicity, consumer defections, and extensive economic loss surrounding these claims. Having a comprehensive risk management program in place is paramount to company success for many reasons:

- Insurance is necessary and provides a measure of protection, but simply having it does not afford adequate protection against product liability claims. A comprehensive risk management program reduces exposure to potential claims. Another benefit: risk management and insurance go hand-in-hand; better risk management may result in lower costs for insurance coverage.
- Reliance on practices, warnings, and contracts that have been used for several years can result in unforeseen liability. Because the law, state of the art, and standards are always changing, warnings, product literature, and contracts may become outdated and provide less protection than previously expected. Periodic review of processes and materials and appropriate updates are important components of any risk management program.
- Even a company with no prior claims or accidents needs a comprehensive risk management plan. Should a claim arise, a company may be found liable because it failed to audit its products and manufacturing processes; review and update its product literature and warnings; maintain adequate insurance coverage; or implement document retention, risk management and/or crisis response plans. The fact that a company has not had a claim in the past is no guarantee that it will not face a catastrophic claim in the future. An effective risk management program protects companies from unwanted exposure in litigation.
- Warnings and limitations of liability in contracts may not be sufficient to shift risk to third parties. When a dispute arises, contracts, warnings, and/or limitations of liability may be rendered ineffective because of "battle of the forms" issues or because employees failed to ensure that the company's terms and conditions were consistently provided and enforced to afford maximum legal protection. Educating personnel about contracts and proper procedures is essential to making effective contracts.

Companies facing these issues should consider Thompson Hine's Risk Management services.

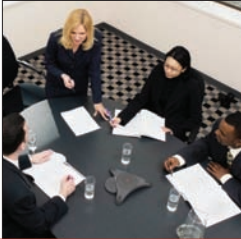


## Our Services

### PRODUCT DESIGN AND MANUFACTURING EVALUATIONS

- We review and audit product designs from a legal perspective during the development stage and after products are in the field. We also evaluate, in consultation with engineers, the risks, utility, and safety of products, and whether they comply with applicable regulations and standards.
- We provide checklists for designing or redesigning products. We counsel on design changes and additional safety features to help limit liability.
- We conduct manufacturing audits and implement quality control and record-keeping practices during manufacturing. This demonstrates that products passed internal inspections and met intended specifications.
- We train and educate design and manufacturing personnel on best practices to limit product liability exposure.
- We counsel clients on potential liability when their products are used with other components or products.
- We advise on machine guarding, lockout/tagout and OSHA issues, and electrical, mechanical, fire safety, and shock hazards.
- We have significant relationships with world-renowned experts and industry organizations. We monitor the state of the art and competing products constantly to improve the safety of our clients' products.





## Our Services

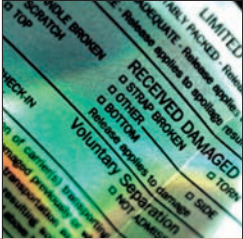
### PRODUCT LITERATURE, WEB SITE, AND MARKETING MATERIALS REVIEW

- We review and draft product warnings, instruction manuals, and service bulletins to ensure that they provide legal protection and comply with standards and regulations.
- We review and draft product warranties, disclaimers, shipping documents, and other contractual provisions to limit or transfer liability where appropriate and as permitted by law.
- We review and create advertising, sales, and marketing materials and web sites and other electronic communications so that our clients' products are marketed and sold in a manner that limits liability.
- We train sales and management personnel so that they do not oversell products or make unintended representations or warranties that expose the company to liability.
- We draft forms for the repair and service of products. We also train service technicians on proper documentation of repairs and service and on reporting safety issues with products in the field.

### CONTRACT REVIEW AND RISK TRANSFER OPTIONS

- We draft contract language to protect clients from product liability and warranty claims and to transfer risks to third parties. This includes limited warranties, disclaimers, indemnity provisions, and outsourcing, licensing, supplier, and distribution agreements.
- We audit our clients' contracts and procedures to determine the extent to which they have effectively limited their contractual liability.
- We train sales and purchasing personnel on "battle of the forms" issues and provide practical advice on steps to ensure that the company's contractual and legal interests are protected.
- We advise our clients about contractual risks and liability during the due diligence process in purchasing or selling a business and in mergers, acquisitions, and joint ventures.





## Our Services

### INSURANCE COVERAGE AND POLICY REVIEW

- We audit our clients' insurance programs from top to bottom. We counsel them on their uninsured or underinsured risks and work with them, their broker, and the insurance market to procure comprehensive coverage for product liability, property damage, bodily injury, and loss of income claims.
- We counsel clients on their deductibles or self-insured retentions, and on the levels and types of coverage that are necessary, including completed operations, product liability, and recall coverage. We also help clients understand the terms and conditions of their insurance policies.
- We assist clients with insurance claims. We make sure that insurers respond to claims promptly. We help our clients obtain defense and indemnification coverage and allocate claims to appropriate policy periods.
- We develop risk management programs for our clients' products and operations. Our clients present these programs to the insurance market to reduce their premiums and obtain the best possible coverage.
- We review our clients' insurance policies and contracts with contractors, vendors, and suppliers to ensure that our clients are named as additional insureds and that all contracting parties have adequate insurance and sufficient financial assets to cover claims.

### RECORD-KEEPING, DOCUMENT MANAGEMENT, AND DISCOVERY PLANNING

- We help our clients document the safety of their design and manufacturing processes. If a claim or lawsuit arises, this documentation may be used to prove that they properly designed and manufactured their products.
- We develop document organization, management, and retention plans, including plans for electronic communications and e-mails. We also develop procedures to track and respond to customer complaints.
- We conduct employee training sessions on smart writing, proper use of e-mails, how to avoid creating "smoking gun" documents, and deposition preparation. We also train employees to be prepared for issues that may arise in litigation.
- We have extensive experience with electronic discovery. We work with IT departments to identify electronic data that must be preserved and methods for retrieving it quickly and easily in the event of litigation.

## Our Services



### CRISIS RESPONSE AND ACCIDENT INVESTIGATION

- We handle accident investigations, product recalls, CPSC reporting and corrective action plans, OSHA citations and enforcement actions, product retrofits and post-sale warnings, and responses to customer complaints.
- We have emergency response teams in place to serve our clients. Our teams are on call 24 hours a day and can be dispatched to an accident site immediately. We help bring situations under control and establish productive working relationships with investigatory agencies, insurance companies, legal claimants, and employees.
- We develop crisis response and accident investigation procedures and checklists to prepare companies to respond to emergencies promptly and appropriately. We ensure that proper personnel are directing investigations and that communications are protected by the attorney-client privilege where appropriate.
- We offer strategic support in dealing with the media in high-profile cases so that clients can avoid adverse publicity and corporate crisis.
- We train employees on best practices to follow when conducting internal investigations or responding to a catastrophic accident in order to limit exposure to liability.

For more information about our Risk Management services, contact:



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# OUR CLIENT SERVICE PLEDGE

## What Our Clients Can Expect From Us . . .

### 1. We will know your business.

We make it our business to understand your business. We will invest our time and resources to develop and maintain knowledge of the dynamics that impact both your industry and your organization. Understanding your business will help us provide better counsel to you.

### 2. We will plan our engagements with you.

We know that clients differ in their goals, risk tolerance and a variety of other factors that must be taken into consideration before work can begin on any matter. At the beginning of every significant matter, we will work with you to develop a plan to meet your strategic goals. By agreeing on a plan at the beginning—and adjusting it as needed—we will stay focused on what is most important to you.

### 3. We will manage your work as if we were the client.

We will work with you to manage your costs. We will staff every matter with the right resources, and we will manage the work as if we were the client—delivering the highest quality of service on time and in the most cost-effective manner.

### 4. We will be available when you need us.

We recognize that you often need to make swift decisions and act quickly. We will be ready to act for you when you need us, and we will make ourselves available wherever and whenever necessary.

### 5. We will communicate often.

Our goal is that you will never be surprised about developments in anything we are handling. We will provide regular updates on the progress of your matters, including all significant developments and changes to scope, timeline or budget.

### 6. We will provide the highest-quality counsel.

Above all else, we stand for the highest quality. Our lawyers, paralegals and staff take pride in the work they do. From the boardroom to the courtroom, you can count on Thompson Hine for the highest-quality service.

## What Our Clients Can Do To Help . . .

### 1. We ask you to share your goals.

The more we know about your goals, the better we can manage our services to help you attain them. If your goals change as a matter progresses, we ask that you tell us, so we can adjust our approach to meet your expectations.

### 2. We want to know your preferences for working with us.

We ask you to tell us your preferred methods of communication, invoice and billing procedures, and anything else that is important to you, so that we can deliver our service the way you want it.

### 3. We need your feedback.

We want your feedback on our performance so that we can continue to meet and exceed your expectations.

## About Thompson Hine

Established in 1911, Thompson Hine is a business law firm dedicated to providing superior client service. The firm has been recognized as one of the Best Corporate Law Firms in America in an annual survey of corporate directors conducted by *Corporate Board Member* magazine. With approximately 400 lawyers in offices in **ATLANTA, CINCINNATI, COLUMBUS, CLEVELAND, DAYTON, NEW YORK** and **WASHINGTON, D.C.**, Thompson Hine serves premier businesses worldwide, including:

AKZO NOBEL INC.

AMERICAN CHEMISTRY COUNCIL, INC.

AMERICAN STEAMSHIP COMPANY

EVERETT DENNISON CORPORATION

BUCKEYE POWER, INC.

CENTRAL GULF LINES, INC.

CENTRAL HUDSON GAS &

ELECTRIC CORPORATION

CH ENERGY GROUP, INC.

CHIQUITA BRANDS INTERNATIONAL, INC.

COLUMBUS ZOO AND

AQUARIUM/ZOOMBEZI BAY

CROWN EQUIPMENT CORPORATION

THE DAVEY TREE EXPERT COMPANY

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REALTY CORPORATION

EATON CORPORATION

ENERGIZER/EVEREADY

EXXON MOBIL CORPORATION

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FORMICA CORPORATION

GOODRICH CORPORATION

THE GOODYEAR TIRE &

RUBBER COMPANY

THE HARTFORD

JO-ANN STORES, INC.

KEYCORP/KEYBANK

LEXISNEXIS

LIMITED BRANDS

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MEADWESTVACO CORPORATION

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POLYONE CORPORATION

PPG INDUSTRIES

THE PROCTER & GAMBLE COMPANY

R+L CARRIERS, INC.

S.C. JOHNSON & SON, INC.

SHELL OIL COMPANY

THE SHERWIN-WILLIAMS COMPANY

SOLVAY S.A.

STERIS CORPORATION

THE TORO COMPANY

VERIZON

WELLPOINT, INC.

WHIRLPOOL CORPORATION



2002 • 2005 • 2006 • 2007  
2008 • RECIPIENT



Ranked as a Leading Firm  
by Chambers USA • 2003 - 2010



Ranked as a Top 25 Firm for  
Client Service • 2008 • 2009 • 2010

## For More Information

For more information, send an email to [AskUs@ThompsonHine.com](mailto:AskUs@ThompsonHine.com) or visit our website at [www.ThompsonHine.com](http://www.ThompsonHine.com)



ATTORNEYS AT LAW

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