



Help Your Client and Change the World

BY ALAN M. FELDMAN

Every one of your cases is about obtaining justice for your client. But some cases present a chance to bring about far-reaching change that can save lives, prevent future tragedies, or end an unfair practice. When considering whether a case you are handling could have a widespread impact, here are some suggestions for how to move forward.

Identify what broad change the case could bring. Not all cases will achieve a result with public interest implications. For example, a motor vehicle crash case arising from the failure to obey traffic signals is unlikely to have a wide societal impact. But a seatback collapse arising from a poor choice of design or materials could have model-wide implications leading to a national recall and standard design changes.

Products liability cases are particularly likely to impact others. For example, my firm represented families across the country whose children were fatally injured by tip-overs of unstable IKEA dressers. The clients' cases helped bring about one of the largest recalls in U.S. history. IKEA also promised to sell in the U.S. only chests and dressers that meet or exceed the voluntary safety standard for dresser stability and to donate \$200,000 to children's hospitals and a children's safety organization.

Get your client's consent. Using a lawsuit as a way to get justice for your client and also make a company's products or practices safer for others is fraught with potential conflicts. After all, our professional obligation is to obtain the best possible result for our client. This is why it is absolutely essential to have a candid conversation with your clients about any corollary public interest objective so that they are on board with a settlement demand that includes non-monetary terms to improve product safety. Fortunately, most clients want to participate in a fight for fairness that goes beyond their individual case.


Partner with consumer advocates, government agencies, and political leaders. Lawsuits alone may motivate a responsible company to withdraw unsafe products from the marketplace or make necessary design improvements, but meaningful change more often will require collaboration with those outside of the judicial system, including nonprofit

consumer groups, government agencies, and sympathetic elected officials.

For example, in several cases involving infant carriers known as "baby slings," the absence of targeted safety standards allowed Infantino to bypass the hazard analysis and rigorous testing that any product should undergo. The result was an incredibly dangerous device that could suffocate babies. We coordinated with consumer organizations, enlisted resources from the Consumer Product Safety Commission, and solicited support from legislators who shared our commitment to product safety. These efforts led to a recall of baby sling-type carriers.

Gather decisive evidence of an unsafe product design or practice. While a preponderance of the evidence is sufficient to win a case in most jurisdictions, persuading a company to recall a profitable product or change an established practice usually requires even more compelling evidence. In one case involving the violent rupture of a tank filled with liquid propane, through exhaustive testing, video surveillance, and dozens of depositions, we proved that poor employee training and disregard of proper filling techniques caused a catastrophic explosion resulting in multiple deaths and injuries. We obtained a substantial recovery for our clients, and we also motivated the whole industry to adopt corrective measures to improve propane dispensing safety.

Think class action. My firm represented a client who was unconstitutionally strip searched after being arrested on minor charges that were later dismissed. In discovery, we learned that the search was conducted pursuant to a long-established police department policy that mandated strip searches for anyone who was arrested and placed in a holding cell. We then amended the complaint to assert class action claims on behalf of all those who had suffered this harm. By thinking beyond our client, we obtained a favorable settlement for about 1,000 people, as well as a policy change ensuring that future strip searches will be conducted only when there is reasonable suspicion that the detainee is concealing a weapon or contraband. However, remember that class actions are a highly specialized area of law—handling these cases may require teaming up with experienced cocounsel.

Achieving a large-scale positive change can be incredibly satisfying for both you and your client. It's a win for the people we represent and for the general public. 

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