California

By William O. Martin, Jr.

What is the Scope of the Duty to Warn?

California recognizes two theories by which a plaintiff can recover for failure to warn, those theories being (1) strict liability in tort, and (2) negligence.

Strict Liability in Tort

The essential factual elements plaintiff needs to establish for a failure-to-warn claim in strict liability are stated in CACI Jury Instruction No. 1205. The instruction states as follows:

> "[Name of plaintiff] claims that the [product] lacked sufficient [instructions] [or] [warning of potential [risks/side effects/allergic reactions]]. To establish this claim, [name of plaintiff] must prove all of the following:
>
> 1. That [name of defendant] [manufactured/distributed/sold] the [product];
> 2. That the [product] had potential [risks/side effects/allergic reactions] that were [known/ [or] knowable in light of the [scientific/ [and] medical] knowledge that was generally accepted in the scientific community] at the time of [manufacture/distribution/sale];
> 3. That the potential [risks/side effects/allergic reactions] presented a substantial danger when the [product] is used or misused in an intended or reasonably foreseeable way;
> 4. That ordinary consumers would not have recognized the potential [risks/side effects/allergic reactions];
> 5. That [name of defendant] failed to adequately warn [or instruct] of the potential [risks/side effects/allergic reactions];
> 6. That [name of plaintiff] was harmed; and
> 7. That the lack of sufficient [instructions] [or] [warnings] was a substantial factor in causing [name of plaintiff]'s harm.
> 8. [The warning must be given to the prescribing physician and must include the potential risks, side effects, or allergic reactions that may follow the foreseeable use of the product. [Name of defendant] had a continuing duty to warn physicians as long as the product was in use.]

The last bracketed paragraph should be read only in prescription product cases: In the case of prescription drugs and implants, the physician stands in the shoes of the ordinary user because it is through the physician that a patient learns of the properties and proper use of the drug or implant. Thus, the duty to warn in these cases runs to the physician, not the patient. *Bigler-Engler v. Breg, Inc.* (2017) 7 Cal.App 5th 276, 319.

Negligence

The essential factual elements for a failure-to-warn claim under a negligence theory are set forth in CACI Jury Instruction No. 1222, as follows:

"[Name of plaintiff] claims that [name of defendant] was negligent by not using reasonable care to warn [or instruct] about the [product]'s dangerous condition or about facts that made the [product] likely to be dangerous. To establish this claim, [name of plaintiff] must prove all of the following:

1. That [name of defendant] [manufactured/distributed/sold] the [product];
2. That [name of defendant] knew or reasonably should have known that the [product] was dangerous or was likely to be dangerous when used in a reasonably foreseeable manner;
3. That [name of defendant] knew or reasonably should have known that users would not realize the danger;
4. That [name of defendant] failed to adequately warn of the danger [or instruct on the safe use of the [product]];
5. That a reasonable [manufacturer/distributor/seller] under the same or similar circumstances would have warned of the danger [or instructed on the safe use of the [product]];
6. That [name of plaintiff] was harmed; and
7. That [name of defendant]'s failure to warn [or instruct] was a substantial factor in causing [name of plaintiff]'s harm.

[The warning must be given to the prescribing physician and must include the potential risks or side effects that may follow the foreseeable use of the product. [Name of defendant] had a continuing duty to warn physicians as long as the product was in use.]"

The last bracketed paragraph is to be used in prescription drug cases only.

This instruction applies to both the manufacturer of a product as well as to a supplier of a product.

What Factors Determine the Adequacy of a Warning?

Strict Liability

A manufacturer or a supplier of a product is required to give warnings of any dangerous propensities in the product, or in its use, of which he knows, or should know, in which the user of the product would not ordinarily discover. *Groll v. Shell Oil Co.* (1983) 148 Cal. App. 3d 444, 448. Further, in order to avoid liability, there must be some basis for the supplier to believe that the ultimate user knows, or should know, of the item's hazard "the intermediary's sophistication is not, as a matter of law, sufficient to avert liability; there must be a sufficient reason for believing that the intermediary's sophistication is likely to operate to protect the user, or that the user is likely to discover the hazard in some other manner." *Webb v. Special Electric Co., Inc.* (2016) 63 Cal.4th 167,189.)

A warning must be commensurate with the degree of danger. It must be directed to the specific danger and must be sufficient to cause a reasonable person acting under similar circumstances with the same knowledge and background to know the potential danger involved in the exercise of reasonable care. *Saporito v. Purex Corp.* (1953) 40 Cal. 2d 608; *Tingey v. E. F. Houghton & Co.* (1947) 30 Cal. 2d 97.

A warning should be such that it will make the product safe for use. The manufacturer or supplier must appropriately label the product, giving due consideration to the likelihood of accident and the seriousness of consequences from failure to so label it as to warn of any dangers that are inherent in it or that may arise from improper handling. *Lee v. Electric Meter Division* (1985) 169 Cal. App. 3d 375.

A duty to warn extends not only to dangers inherent in the product, but also to dangers that may arise from the use of the product. *Crane v. Sears Roebuck & Co.* (1963) 218 Cal. App. 2d 855.

The actual knowledge of the individual manufacturer, even if reasonably prudent, is not the issue. The standard is to require that the manufacturer is held to the knowledge and skill of an expert in the field – it is obliged to keep abreast of any scientific discoveries and is presumed to know the results of all such advances. *Carlin v. Superior Court* (1996) 13 Cal. 4th 1104.

The adequacy of a warning is usually a question of fact for the jury. *Jackson v. Deft, Inc*. (1990) 223 Cal. App. 3d 1305.

Negligence

A manufacturer or seller of a product is negligent if he or she fails to warn buyers of a latent defect in the product in which the seller has knowledge, even if the circumstances under which the danger may occur constitute only a fraction of the total number of uses for the product. *John Norton Farms, Inc. v. Todagco* (1981) 124 Cal. App. 3d 149.

Sections 388 and 394 of the Restatement (2d) of Torts, both dealing with the obligation to warn, have been cited with approval by California courts. *Putensen v. Clay Adams, Inc.* (1970) 12 Cal. App. 3d 1062, 1076-1077.

Is it Always Necessary to Warn?

Commonly Known Dangers

A manufacturer is not required to warn of a risk which is readily known and apparent to the consumer (in this case a physician). *Plenger v. Alza Corp.* (1992) 11 Cal. App. 4th 349, 362; *Holmes v. J. C. Penney Co.* (1982) 133 Cal. App. 3d 216.

However, a user's knowledge of some dangers in a product does not affect the duty to warn of other, unknown dangers. *Artiglio v. General Electric Co.* (1998) 61 Cal. App. 4th 830. Where the duty to warn is predicated upon the notion that the user does not know of the dangers or hazards associated with the use of the product, it can be the defendant's duty to demonstrate that "a user has sufficient expertise to be charged with the knowledge of risks associated with a particular product." *Selma Pressure Treating Co. v. Osmose Wood Preserving Co.* (1990) 221 Cal. App. 3d 1601, 1623.[1]

Open and Obvious

There is no duty to warn of obvious defects. Krawitz v. Rusch (1989) 209 Cal. App. 3d 957, 966; *Holmes v. J. C. Penney Co.* (1982) 133 Cal. App. 3d 216, 220; *Morris v. Toy Box* (1962) 204 Cal. App. 2d 468, 471.

Unavoidably Unsafe Products

(i) In a product liability action, a manufacturer or seller should not be liable if both of the following apply:

(a) The product is inherently unsafe and the product is known to be unsafe by the ordinary consumer who consumes the product with the ordinary knowledge common to the community.

[1] Additionally, a user's knowledge as to some dangers associated with a product does not relieve a supplier of the duty to warn of other dangers unknown to the user. *Selma Pressure Treating Co. v. Osmose Wood Preserving Co.* (1990) 221 Cal. App. 3d 1601, 1623

(b) The product is a common consumer product intended for personal consumption, such as sugar, caster oil, alcohol and butter, as identified in Comment (j) to Section 402a of the Restatement (2d) of Torts.

(ii) This section does not exempt the manufacture or sale of tobacco products by tobacco manufacturers

(iii) For purposes of this section, the term "product liability action" means any action for injury or death caused by a product, except that the term does not include an action based on a manufacturing defect or breach of an express warranty.

(iv) This section is intended to be declarative of and does not alter or amend existing California law, including *Cronin v. J.B.E. Olson Corp.* (1972), 8 Cal.3d 121, and shall apply to all product liability actions pending on, or commenced after, January 1, 1988.

(v) This section does not apply to, and never applied to, an action brought by a public entity to recover the value of benefits provided to individuals injured by a tobacco-related illness caused by the tortious conduct of a tobacco company or its successor in interest, including, but not limited to, an action brought pursuant to Section 14124.71 of the Welfare and Institutions Code. In the action brought by a public entity, the fact that the injured individual's claim against the defendant may be barred by a prior version of this section shall not be a defense. This subdivision does not constitute a change in, but is declaratory of, existing law relating to tobacco products.

(vi) It is the intention of the Legislature in enacting the amendments to subdivisions (a) and (b) of this section adopted at the 1997-98 Regular Session to declare that there exists no statutory bar to tobacco-related personal injury, wrongful death, or other tort claims against tobacco manufacturers and their successors in interest by California smokers or others who have suffered or incurred injuries, damages, or costs arising from the promotion, marketing, sale, or consumption of tobacco products. It is also the intention of the Legislature to clarify that those claims that were or are brought shall be determined on their merits, without the imposition of any claim of statutory bar or categorical defense.

(vii) This section shall not be construed to grant immunity to a tobacco industry research organization…California Civil Code §1714.45.

Does California Apply the Heeding Presumption?

To date no California case has recognized a heeding presumption. *Motus v. Pfizer* (2001) 196 F.Supp.2d 984, 991-995; *Lord v. Sigueiros* 2006 WL 1510408 (California Superior Court, San Luis Obiso County)(2006). It is important to note, however, there are three California cases from the late 1960s and early 1970s that plaintiffs rely on in an attempt to create a heeding presumption. *Harris v. Belton* (1968) 258 Cal. App. 2d 595, 608; *Oakes v. DuPONT* (1969) 272 Cal. App. 2d 645, 649; *Carmichael v. Reitz* (1971) 17 Cal. App. 3d 958, 987. All three cases cite language directly from Comment (j) to the Restatement (2d) of Tort §402(a), which states in pertinent part:

> "Where warning is given, the seller may reasonably assume that it will be read and heeded; and a product bearing such warning, which is safe for its use if it is followed, is not in defective condition, nor is it unreasonably dangerous."

None of these three cases, however, rely upon this language in reaching their respective holdings and neither these cases, nor Comment (j), address the issue of establishing legal presumptions or inferences for the pur-

pose of establishing burdens of proof. The language of Comment (j) contemplates the circumstances under which a seller may be required to provide a warning or instruction in order to render a product safe.

That said, Comment (j) has been used as authority for those jurisdictions where statutes or case law have expressly provided for an evidentiary presumption, i.e., the heeding presumption.

Component Part Manufacturers' Duty to Warn

The knowledge of a manufacturer of a component part of how a raw material will be used does not, by itself, create a duty to investigate the risk posed by the final product. *Artiglio v. General Electric Co.* (1998) 61 Cal. App. 4th 830. Such an analysis under *Artiglio* is intended to be limited to cases involving injuries caused by the finished product rather than during the manufacturing process.[2]

The duty of a manufacturer of a component part to warn about potential hazards of its product has been recognized but is limited, invoking the "raw material supplier defense" and "the bulk sales/sophisticated purchaser rule." *Groll v. Shell Oil Co.* (1983) 148 Cal. App. 3d 444, 449; *Artiglio v. General Electric Co.* (1998) 61 Cal. App. 4th 830.

If the component is not itself defective, it would be unjust and inefficient to impose liability solely on the ground that the manufacturer of the integrated product utilizes the component in a manner that renders the integrated product defective. Imposing liability would require the component seller to scrutinize another's product, which the component seller has no role in developing. This would require the component seller to develop sufficient sophistication to review the decisions of the business entity that is already charged with responsibility for the integrated product. Restatement (3d) Torts, Products Liability, §5, comment a, p. 131.

Duty to Warn for Another Manufacturer's Product

Manufacturers of abrasive wheels and discs which released toxic dust, which were component parts used with grinders, sanders and saws, were not obligated to warn of defects in the final product, but had a duty to warn of defects which occurred when their products were used as intended. *Tellez-Cordova v. Campbell-Hausfeld/Scott Fetzger Company* (2004) 129 Cal. App. 4th 577 ("*Tellez-Cordova*"). California cases involving the liability of component part manufacturers support the courts conclusion that manufacturers should not be strictly liable for failing to warn of the hazards of other manufacturers' products. Under the component parts doctrine, the manufacturer of a product component is not liable for injuries caused by the finished product into which the component is incorporated unless the component itself was defective at the time it left the manufacturer. *Taylor v. Elliott Turbomachinery Co., Inc.* (2009) 171 Cal.App.4th 564, 584; *Jimenez v. Superior Court* (2002) 29 Cal.4th 473, 480. Two policy considerations support this rule. First, requiring suppliers of component parts to ensure the safety of their materials as used in other entities' finished products would require suppliers to retain an expert in the client's field of business to determine whether the client intends to develop a safe product.[3] A second, related rationale is that "finished product manufacturers know exactly what they intend to do with a component or raw material and therefore are in a better position to guarantee

---

[2] The plaintiffs in *Artiglio* were women who had received breast implants, not workers in the factory that produced the implants.

[3] Suppliers of products that have multiple industrial uses should not be forced "to retain experts in a huge variety of areas in order to determine the possible risks associated with each potential use. *Taylor v. Elliott Turbomachinery Co., Inc.* (2009) 171 Cal.App.4th 564, 584.

that the component or raw material is suitable for their particular application." *Taylor v. Elliott Turbomachinery Co., Inc.* (2009) 171 Cal.App.4th 564, 584.

Tellez-Cordova is especially relied upon by plaintiffs' attorneys in asbestos cases by arguing that a manufacturer of a valve, pump or other device has a duty to warn consumers that another manufacturer's product, in this case asbestos insulation, should not be placed over the valve, pump or other product. The trial courts have been split on whether such a duty to warn exists. There is no appellate decision on this issue.

Tellez-Cordova marked an exception to the general rule barring imposition of strict liability on a manufacturer for harm caused by another manufacturer's product. [4]Such a duty to warn in *Tellez-Cordova* is appropriate because there "the defendant's product was intended to be used with another product for the very activity that created the hazardous situation." *Sherman v. Hennessy Industries, Inc.* (2015) 188 Cal. App.4th 1133, 1141. It follows that, where the "intended use of a product inevitably creates a hazardous situation, it is reasonable to expect the manufacturer to give warnings. Conversely, where the hazard arises entirely from another product, and the defendant's product does not create or contribute to that hazard, liability is not appropriate." (*Id.* at p. 1142.).

Learned Intermediary Doctrine

In a case of prescription drugs and implants, the physician stands in the shoes of the "ordinary user." Thus, the duty to warn in these cases runs to the physician, not the patient. *Valentine v. Baxter Healthcare Corp.* (1999) 68 Cal. App. 4th 1467, 1483.

A pharmaceutical manufacturer may not be required to provide warning of a risk known to the medical community. *Carlin v. Superior Court* (1996) 13 Cal. 4th 1104.[5]

Sophisticated User Doctrine

Under the "sophisticated user doctrine" a manufacturer is not liable for failure to give warning of a product's risk, harm or danger to members of a trade or profession if the sophisticated user[6] knew or should have known of that risk, harm or danger. Restatement (2d) of Torts §388[7][8]. *Chavez v. Glock, Inc.* (2012) 207 Cal. App.4th 1283, 1304; *Johnson v. Honeywell Internat., Inc.* (2009) 179 Cal.App.4th 549. The focus of the "sophisticated user doctrine" is whether the danger in question was so generally known within the trade or profession that a manufacturer should not have been expected to provide a warning specific to the group to which plaintiff belonged. *Collin v. CalPortland* (2014) 228 Cal.App.4th 582, 601.

---

[4] Exception is applicable when "the defendants own product contributed substantially to the harm.

[5] The warning that accompanied the PCU was more than adequate in view of its status as a prescriptive medical device and the superior court implicitly concluded that the learned intermediary doctrine applied by analogy to the PCU so that defendants' duty to warn about its risks ran not to Warner but instead to his doctor.

[6] The user is a professional who should be aware of the characteristics of the product.

[7] The suppliers duty to warn arises only when the supplier "has no reason to expect that the item's user will…realize the danger involved." Restatement (2d) of Torts §388 comment k.

[8] When the supplier provides items to a third party that will pass them to the user, the supplier may in some circumstances discharge its duty to warn the user by informing the third party of the item's danger. Restatement (2d) of Torts §388 comment n.

Post-Sale Duty to Warn

A manufacturer or supplier of a product may be under a post-sale duty to warn of dangers that the manufacturer or supplier becomes aware of after the product has left its possession. *Lunghi v. Clark Equipment Co.* (1984) 153 Cal. App. 3d 485; *Balido v. Improved Machinery, Inc.* (1972) 29 Cal. App.3d 633.[9]

Causation

Lay Opinion

In view of the fact that California has not adopted the heeding presumption, the necessity of plaintiff proving that the absence of a warning was a substantial cause of his injuries becomes especially important. Although California has not adopted the equivalent of the Federal Rules of Evidence 701 (when lay opinion is appropriate) and in those cases interpreting that rule, such as *Kloepfer v. Honda Motor Co., Ltd.* (10th Cir. 1990) 898 F. 2d 1452 (affirming trial court's exclusion of plaintiff's testimony that she would have obeyed a proper safety warning on defendant's product) and *Washington v. Department of Transportation* (5th Cir. 1993) 8 F. 3d 296, 300 (affirming trial court's refusal to allow plaintiff to testify as to what he would have done if he had seen the warning label on defendant's product), California Evidence Code §800 may be interpreted to be consistent with FRE 701. Section 800 states:

> "If a witness is not testifying as an expert, his testimony in the form of an opinion is limited to such opinion as is permitted by law, including but not limited to an opinion that is:
>
> (a) rationally based on the perception of the witness; and
>
> (b) helpful to a clear understanding of his testimony."

In *Gestemani Boila-Schutt v. Cedar Fair*, LP, 206 Cal. App. Unpub-LEXIS 1509 (2006), an unpublished decision, plaintiffs filed a wrongful death action as a result of a family member, Justin, dying from cardiac arrest after riding Montezuma's Revenge at Knott's Berry Farm. In opposing the summary judgment motion, Justin's brothers declared that if there had been an effective warning, they would not have permitted their sister to ride Montezuma's Revenge. The trial court sustained the defendants' objections to this portion of their Declaration, finding that it was pure speculation whether the plaintiffs would have gone on the ride, given a stronger warning. The Appellate Court affirmed, citing *Sangster v. Paetkau* (1998) 68 Cal. App. 4th 151, 163; See also, the Ninth Circuit Opinion of *Nevada Power Co. v. Monsanto Company* (1995) 891 F. Supp. 1406.

See *Colombo v. BRP US INC* (2014). 230 Cal.App.4th 1442, where defendant contended that plaintiff's self-serving testimony regarding what plaintiff would have done differently, had there been an adequate warning, was admissible. Prior to appellate review, defendant raised such contention in a motion in liminie, which was denied. The trial court admitted the testimony, and the Court of Appeals found such "self-serving" testimony was admissible because it was "reasonable, credible and solid value and supports the finding of a reasonable jury." (*Id.* at p. 1454.)

[9] Strict liability for deficient design of a product is premised on a finding that the product was unreasonably dangerous for its intended use, and in turn the unreasonableness of the danger must necessarily be derived from the state of the art at the time of the design. *Balido v. Improved Machinery, Inc.* (1972) 29 Cal. App. 3d 633.

Expert Opinion

In California, the court has ruled when excluding witness testimony that "the gatekeepers focus must be solely on principles and methodology, not on the conclusions that they generate." *Sargon Enterprises, Inc. v. University of Southern California* (2012) 55 Cal.4th 747, 772 ("*Sargon*"); *Town of Atherton v. California High-Speed Rail Authority* (2014) 228 Cal.App.4th 314, 351. The goal of the gatekeeper is to make certain that an expert, whether basing testimony upon professional studies or personal experience employs in the courtroom the same level of intellectual rigor that characterizes the practice of expert in the relevant field, because the court must simply determine whether the matter relied on can provide a reasonable basis for the opinion or whether the opinion is based on a leap of logic or conjecture. *Sargon*, *supra*, 55 Cal.4th at p. 772. Further, the court does not resolve scientific controversies, but rather conducts a circumscribed inquiry to determine whether, as a matter of logic, the studies and other information cited by experts adequately support the conclusion that the expert's general theory or technique is valid. (Ibid.) The matter relied on must provide a reasonable basis for the particular opinion offered, and that an expert opinion based on speculation or conjecture is inadmissible. *Garrett v. Howmedica Osteonics Corp.* (2013) 214 Cal.App.4th 173.[10] The court in *Sargon* held that the trial court may exclude testimony because it is not based on matter that is of a type that reasonably may be relied upon by an expert in forming an opinion upon the subject to which his testimony relates. *Sargon*, *supra*, 214 Cal.App.4th 173, 189.

Under Federal Rule of Evidence 702,[11] federal courts, in applying the *Daubert* standard, have held that Federal Rules of Evidence 702 imposes a special obligation upon a trial judge to ensure that any and all scientific testimony rests on a reliable foundation and is relevant to the task at hand. *Daubert v. Merrell Dow Pharmaceuticals* (1993) 509 U.S. 579 ("*Daubert*"), Under *Daubert*, in order for expert testimony to be reliable must be grounded in the methods and procedures of science and consist of more than subjective belief or unsupported speculation. (*Id.*) Further, expert testimony must relate to an issue in the case to be relevant, or in other words such testimony must fit within the case to be deemed relevant. *Daubert*, *supra*, 509 U.S. at p. 591. The court held that in determining whether a theory or technique is scientific knowledge that will assist the trier of fact will be "whether it can be and has been tested," has been subjected to peer review or publication, has a known or potential rate of error, and is generally accepted. (*Id.*) While such an inquiry is not in that of itself determinative whether the testimony in question is scientific knowledge that will assist the trier of fact, the court in *Daubert* mainly requires the trial judge to ensure that any and all scientific testimony rests on a reliable foundation and is relevant to the task at hand.[12] Even further, *Daubert* applies specifically to expert testimony that relies on scientific knowledge, but the requirements of expert testimony apply to non-scientific knowledge as well. *Kumho Tire Co., v. Carmichael* (1999) 526, U.S. 137 ("*Kumho*"). In *Kumho*, the court

---

[10] Evidence Code 802 allows the trial court to inquire into the reasons for an expert's opinion so as to determine whether those reasons are supported by the material on which the expert relies.

[11] FRE 702 states : "If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise."

[12] The trial court's task is not to choose the most reliable of the offered opinions and exclude others: "When a trial court, applying this amendment, rules that an expert's testimony is unreliable, this does not necessarily mean that contradictory expert testimony is unreliable. The amendment is broad enough to permit testimony that is the product of competing principles or methods in the same field or expertise. Advisory Com. Notes to Federal Rules of Evid. rule 702, 28 U.S.C.

held that Rule 702 grants the district judge the discretionary authority to determine reliability in light of the particular facts and circumstances of the particular case effectively applying those requirements for scientific expert testimony to non-scientific expert testimony.

AUTHOR

William O. Martin, Jr. (known as Skip) is a Senior Partner of the Product Liability and Professional Liability Practice Groups and serves as the leader of the Elder Care Practice Group. His practice is national in scope and focuses on the litigation and trial of product liability actions. He serves as national trial counsel for APV North America, Inc. and its various divisions, having successfully defended the products for various companies in over 30 states. He has represented other clients on both a regional and national basis. Products in which Mr. Martin has significant experience include, but not limited to: all-terrain vehicles, personal watercraft, snowmobiles, conveyors, pneumatic conveyors, turbo expanders, nitrogen generators, film winders, wire winders, rotary cutters, rotary molders, packaging equipment, mixers, fabric-treating machines, printing presses, gear cutters, saws, diesel locomotive bearings, brakes on railroad cars, sporting equipment, automotive parts, plate heat exchangers, refrigeration equipment such as compressors and condensers, valves, freezers, air compressors, construction equipment such as back hoes, front end loaders and skid steer loaders, farm equipment, distillation systems, plastic blowmold machines, homogenizers, ovens, plastic extrusion equipment, traffic signals, asbestos, artificial turf, asphalt and the hard facing placed on the interior of valves. Mr. Martin has also successfully represented clients in fire cases, serious motor vehicle accidents, including automobiles, motorcycles and semi-tractor trailers, construction accidents, railroad crossing collision cases, FELA and Safety Appliance Act cases, asbestos cases and some commercial litigation involving his clients' products. Mr. Martin has written extensively, presented seminars and webinars and successfully defended cases involving "Warnings," including issues of causation, the "heeding" presumption, the "uncertainty" principle and the "benign experience" principle. Mr. Martin has also written and presented webinars on the use of Daubert to strike opposing experts, using Daubert to successfully challenge opposing experts in pretrial motions and at trial.

Haight, Brown & Bonesteel LLP | (310) 215-7518 | wmartin@hbblaw.com