

CHICAGO LAWYER[®]

Establishing itself

Launched during the pandemic, Smith LaCien's work on Sterigenics cases helped firm reach top 10 of JVR Settlements Report

By John McNally

Smith LaCien opened early in the pandemic and its leaders were definitely feeling added anxiety during an already stressful time.

But early into the firm's launch, founders Todd A. Smith and Brian LaCien had around 50 clients suing Sterigenics for allegedly causing cancer due to long-term exposure from chemicals emitted by its Willowbrook facility. Seeing their clients through, the 4-year-old firm is now ranked ninth in the 2024 Jury Verdict Reporter Settlements Report with 38 cases totaling \$90,246,290. Smith LaCien's top case in the report was \$19 million for a birth injury to a child who suffered a neurologic injury because of hypoxic-ischemic encephalopathy.

Smith said he and LaCien got involved with

Sterigenics early. LaCien said the majority of the firm's Sterigenics work was completed by Zoom depositions of experts and clients.

"It wasn't until late in the case that we actually start doing depositions in person," he said. "It was an experience to work up those cases because they were truly (done) during COVID."

Smith believes there was a "silver lining" to working the case during COVID, since the court slowdown helped everyone get the work in order.

"Because we were involved with these various cases that were group cases," Smith said. "Maybe that was a bit of a benefit, that we could share the misery together, but also try to figure out how to get things moving right and eventually picking up."



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TECHNICAL DETAILS

Smith credits both his and LaCien's leadership A. in national legal associations, most notably the American Association for Justice, for being able to scour the country for the best expert witnesses on the Sterigenics case.

"We know (many) lawyers around the country, and that networking allows us to reach out to folks and get their experiences," he said.

LaCien added: "One of the experts we had was involved in the International Agency for Research on Cancer (IARC) studies of ethylene oxide. (IARC) picks certain compounds, chemicals, substances and conducts research on (them)."

Expert witness vetting was intense for Smith and LaCien, including multiple doctors and research leaders.

"There was a process we went through in working with these experts to decide which experts we were going to work with and getting the information they need," LaCien said. "A lot of them had research on their own, and it was a process that the firms really worked well together on."

Smith is impressed with LaCien's ability to quickly know the science that goes into any case, especially with Sterigenics.

"He has a really excellent ability to understanding these technical areas — both in the law and also the science side," he said. "I don't know where that comes from."

LaCien and Smith had to learn about how ethylene oxide causes cancer, the weather data to learn about how his clients might have been exposed to the cancer-causing agent, and more.

"In this case, it would be cancer at the population level," LaCien said. "That means when you see statistics for cancer rates or other disease rates, those are oftentimes arrived at by epidemiologists, some of which are medical doctors. But sometimes they are not."

He added: "The medical science was more closely associated with breast and certain blood cancers, generally leukemias and lymphomas. There were several subcategories, and all of that was on any given case, part of the analysis, as well as part of the evidence."

LaCien said that when cases neared going to trial, his clients would have to map their lives over the years to show how much exposure they would have had.

"They're asked for a lot of information. We had to explain to them the need and why it's

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being done," he said. "On all these cases, it goes back to the privilege and trust. You're working with these people and delving into their lives and health histories. Defendants often try to keep things as to what's relevant. Clients are often asked to open the book to their lives. It's not always fair, but you have to talk to them about all their health histories. Sometimes many, many years before whatever happened."

Smith and LaCien say managing all their clients' individual concerns was difficult, since these were all individual cases, not a class action suit. The team kept them informed of the latest proceedings with weekly calls and emails.

Sterigenics was a massive undertaking for a new firm getting its sea legs during the COVID pandemic, but Smith and LaCien are proud of the firm's work in getting quality results for their clients.

"Once you've done something like that, there's a much greater comfort level in doing it again and again," Smith said.

"It was local firms for the most part, and everyone pretty much knew each other," LaCien said. "It was a fulfilling experience to work with people. Everyone was really cooperative and trying to get the best result for everybody involved."



Brian LaCien

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