

# Practice Groups Make Perfect

## *E.I. du Pont de Nemours & Co. and Spilman Thomas & Battle, PLLC*

By Scott M. Gawlicki

Many corporate legal departments have established mutually beneficial partnerships with a select group of law firms. But nobody has done it in such a headline-grabbing fashion as Wilmington, Del.-based E.I. du Pont de Nemours & Co.

Consider DuPont's relationship with Spilman Thomas & Battle, PLLC, its primary law firm (PLF) in West Virginia and one of some 40 nationwide, and specifically in the case of DuPont's Toxic Tort Practice Group.

DuPont Corporate Counsel Roseanne R. Duffy and Spilman Member and DuPont Engagement Partner Niall Paul co-chair the practice group, which helps inside and outside counsel share important case-specific findings, nationwide. Paul recently

reported to the group on a lawsuit that claims DuPont's Parkersburg, W.Va., plant contaminated local water supplies with a chemical used in making Teflon products. As Spilman is the lead PLF defense counsel, the report drew an interesting reaction.

"As a group, we're finding many plaintiffs have the same arguments and strategies regardless of the tort issue or jurisdiction. With Roseanne's guidance, we present our experiences at practice group meetings and someone inevitably says, 'Wait a minute,

I just heard that in my case.' That's essentially what happened when I discussed my current case. It's as though the plaintiffs have attended a class on how to sue industrial manufacturers," Paul explains. "The plaintiffs' bar has always been better



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From left, Stephanie L. Ojeda, Spilman Thomas & Battle, PLLC; Ramona E. Romero, E.I. du Pont de Nemours & Co.; Paula L. Durst, Spilman Thomas & Battle, PLLC



From left, Roseanne R. Duffy, Ramona E. Romero and Silvio J. DeCarli, E.I. du Pont de Nemours & Co.

at sharing information and strategies. Now, through the practice group model, we're able to crack that code and make sure we respond efficiently and consistently, networkwide."

"That's the whole idea behind the practice group model—to have PLFs working on similar DuPont cases share their findings," Duffy says. "The participants in this particular group have been together less than a year, but our approach is already

generating a lot of excitement. People want to share their information because it helps everyone—the law firms and DuPont—succeed.”

## Creating the Model

DuPont introduced its Legal Model to great fanfare in the early 1990s when it downsized the number of law firms it employs from 350 to approximately 40. Concentrating its legal services business among a select number of firms, the company reasoned, would help it establish more cost-effective and mutually beneficial partnerships.

The practice group concept is an integral part of the DuPont model because it provides a way for inside and outside counsel to collaborate on resources,

share the risks of going to trial and one that doesn't simply push for a settlement.”

The Legal Model is designed, of course, to reward team players. The positive experience with the asbestos suit brought Spilman other opportunities, including a leading role in a number of toxic tort matters and specifically the water contamination lawsuit in Parkersburg. It also served as a springboard for a greater presence within DuPont's practice groups.

“In 2006, we decided to re-energize the Practice Group Initiative,” explains Ramona E. Romero, a corporate counsel at DuPont who managed the DuPont Partnering Program until late this summer. “The vibrant toxic tort practice group is a product

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information, work product and best practices. The model is said to achieve greater efficiency and improved results because in-house and PLF attorneys can pool their findings and knowledge through mutually beneficial “legal networking.”

As one of the early PLFs, Spilman has firsthand experience with DuPont's collaborative process, and ultimately how it has led to the creation of the Toxic Tort Practice Group. In 2002, for instance, Silvio J. DeCarli, corporate counsel for DuPont, asked Spilman to work with two out-of-state firms to defend a W.Va.-based asbestos lawsuit.

“Most of the W.Va. asbestos cases were settled by then. But in this instance, we only had six weeks to prepare for nine different lawsuits, each representing a different complaint, that the judge consolidated into one case,” explains Spilman Member Paula L. Durst. “Our role was to depose factual witnesses and work with the plaintiffs' counsel to oversee the discovery process.”

The multiple law firm defense worked well—so well, in fact, that DuPont issued cash awards to each firm at its conclusion.

“It was a great trial success for DuPont,” Paul says. “Further, the law firms benefited as well. For Spilman, it served as a benchmark on our ability to put turf battles aside and collaborate with other law firms. DuPont got to know us and trust us as a firm willing to

of that effort. The group's success thus far goes beyond case management. My colleague, Roseanne Duffy, Niall Paul and lawyers from all the other law firms have done a great job. There's a real cohesiveness, and much of the credit certainly goes to Spilman.”

## The E-Discovery Effect

The toxic tort lawsuits are also having a major impact on DuPont's E-Discovery Practice Group, which includes Paul and Spilman Senior Attorney Stephanie L. Ojeda, who co-chairs its Education Committee.

The Parkersburg lawsuit was filed in 2006, the same year that amendments to the Federal Rules of Civil Procedure on electronic discovery were formally adopted. The lawsuit is still in the discovery stage. E-discovery negotiations have thus far covered everything from metadata fields to internal preservation orders to document search terms. Paul and Ojeda are providing the E-Discovery Practice Group with invaluable findings and lessons. The information is subsequently passed on internally and to other PLFs via the practice group.

“Regarding the federal guidelines, we were the first ones out of the batter's box,” explains DeCarli, who oversees the Parkersburg lawsuit and manages litigation throughout the United States. “Parkersburg was the first time we had to apply the new

partnership  
at a glance

## E.I. du Pont de Nemours & Co.

Founded in 1802, E.I. du Pont de Nemours & Co. offers a wide range of products and services for the agriculture, nutrition, electronics, communications, safety and protection, home and construction, transportation and apparel markets. Its 60,000 employees in more than 70 countries helped the company generate \$27.4 billion in revenues in 2006.

**Ramona E. Romero**, corporate counsel, logistics and energy, is responsible for legal oversight of the acquisition of transportation, distribution, supply change management and energy services, and for compliance with regulations governing cross-border activities and transport of hazardous materials. Until late this summer, she managed all facets of DuPont Legal's industry-leading partnering program and administered many of the department's operations. Contact Ramona at [Ramona.E.Romero@USA.dupont.com](mailto:Ramona.E.Romero@USA.dupont.com).

**Roseanne R. Duffy**, corporate counsel, joined DuPont as a scientist before earning her J.D. and transferring to the DuPont legal department in 1989. Today, she focuses on toxic torts. She manages the benzene, Tyvek and Kapton dockets, leads the Toxic Tort Practice Group and serves as counsel to the Medical Advisory Team. Contact Roseanne at [Roseanne.R.Duffy@USA.dupont.com](mailto:Roseanne.R.Duffy@USA.dupont.com).

**Silvio J. DeCarli**, corporate counsel, has managed a diverse national litigation docket for the past 15 years. Much of his work has involved toxic tort and environmental litigation in state and federal courts, including several high-profile mass tort and class action lawsuits. These lawsuits typically involve complex and often novel scientific issues that intersect with traditional tort law principles. Contact Silvio at [Silvio.J.DeCarli@usa.dupont.com](mailto:Silvio.J.DeCarli@usa.dupont.com).

## Spilman Thomas & Battle, PLLC

Regardless of a case's size, the firm's philosophy is to manage the litigation as efficiently and effectively as possible. Using an early case assessment model, the firm works closely with its clients to identify and quantify the risks of trial compared to the potential for an early, cost-effective resolution. This process allows the client to identify and achieve its goals for the litigation.

**Niall Paul's primary areas of practice are trial practice and appellate practice, focusing on complex tort litigation and commercial and employment litigation. He has successfully litigated disputes, mass and class actions relating to business issues and torts, including chemical product liability, unfair trade practices, deliberate intent injury claims and premises liability claims, and employment-related jury, bench and administrative trials. Niall is Spilman's DuPont Engagement partner. He is Peer Review rated. Contact Niall at npaul@spilmanlaw.com.**

**Member Paula L. Durst's primary areas of practice are toxic tort and product liability litigation. She has defended a series of large toxic tort matters for corporate clients in federal court; class action toxic tort and environmental matters for large corporate clients; and wrongful death, employer deliberate intent, toxic tort and product liability matters in state and federal courts. She is Peer Review Rated. Contact Paula at pdurst@spilmanlaw.com.**

**Senior Attorney Stephanie L. Ojeda's primary area of practice is general litigation. A former criminal assistant U.S. attorney and U.S. District Court law clerk, she offers experience in complex tort litigation and labor and employment law, as well as prosecution and defense of federal criminal law. Contact Stephanie at sojeda@spilmanlaw.com.**



discovery guidelines to a major lawsuit. Guidelines are fine, but it's another thing to implement them. We have electronic systems companywide, but they were not designed exclusively for e-discovery brought on by litigation. We've had to negotiate how electronic documents will be searched, which documents need to be produced and how they will be produced. We have to ensure that our electronic systems comply with our litigation requirements, while also ensuring they are workable. It's a very complex issue technologically."

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Though the Parkersburg discovery was not coordinated by the practice group, DeCarli believes lessons learned from the case may eventually be used by DuPont to develop corporatewide e-discovery best practices.

Ojeda agrees. "The courts no longer accept the argument that electronic discovery procedures are not in place," she says, "so the Parkersburg case is helping our practice group examine and demonstrate how e-discovery affects DuPont's current data management systems and processes. At the

same time, we're studying how the systems are structured to determine the most cost-effective way for DuPont to deal with e-discovery issues in future litigation."

## The Gold Standard

Suffice to say, when it comes to a client looking out for the business interests of its law firms, Paul says he's never seen anything like DuPont.

"They really are the gold standard in that regard," he says. "Regardless of the case, matter or core value at issue, fundamentally the two sides share the risks and the rewards. DuPont looks out for its law firms and offers assistance and support if and when it's needed, even in non-DuPont matters. In response, the law firm provides time, energy and effort in concrete but nonbilling situations like the practice groups."

In fact, DuPont Legal presented the Silver Eagle Award to Duffy and Paul in 2006 for "recognition of their leadership and commitment to the DuPont Toxic Tort Practice Group." This award has only been given a few times since its inception—further demonstrating a true partnership. "We've been using a partnering model for 15 years, and Spilman is one of the program's early firms," Romero says. "Spilman plays an active role in many of our practice groups and has historically contributed to groups ranging from the Toxic Tort Practice Group to the Labor and Employment Practice Group. They have handled a variety of matters and have demonstrated a willingness to accommodate our needs. The amount of work their attorneys have put into our practice groups demonstrates that commitment." ●