Insurance Coverage CASE STUDY

Case: Atmel Corporation v. St. Paul Insurance
Client: Sedgwick, Detert, Moran and Arnold LLP
Venue: U.S. District Court – Northern District of CA, San Francisco
Year: 2006

When Atmel was served with its biggest product defect suit ever, it asked its errors and omissions insurer, St. Paul, to provide a defense. St. Paul's investigation indicated that Atmel had not only misrepresented the potential for this claim while applying for the policy, but also that Atmel knew such a claim was *likely*. St. Paul rescinded the policy *ab initio* on these grounds, and Atmel sued.

Challenges

Plaintiff and Defendant didn't merely have different points of view, they told two altogether different stories about the events. As Defendant, we had to compare and contrast our story to that of the Plaintiff so that the jury would not be confused. We also needed to educate the jury on a subject that the Plaintiff was ignoring – the application process. Finally, it was important that our Defendant not sound defensive, but rather make clear that our rescission was based on a rational decision making process.

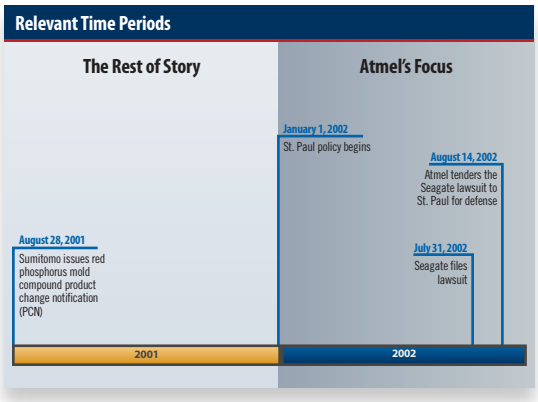
Solutions

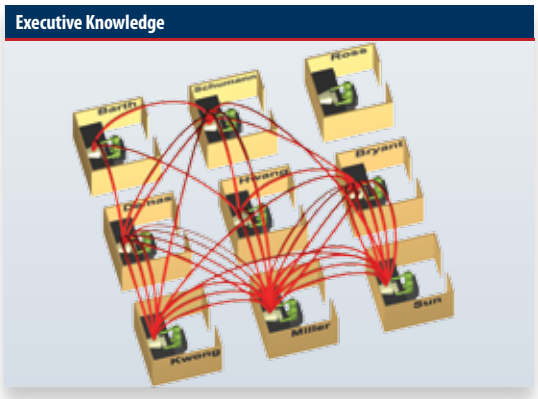
We portrayed Atmel as focusing on the events after the suit was tendered for defense. St. Paul's story started much earlier, as the product defect began to surface, even before Atmel had submitted an application to St. Paul. To successfully challenge the validity of the application, we developed demonstratives showing:

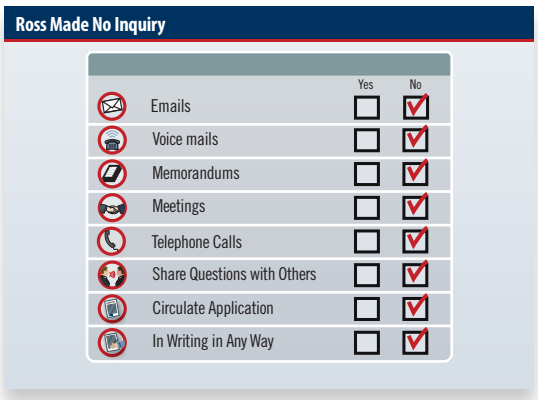
1.) why a contract for insurance could be declared void *ab initio* and rescinded;
2.) information circulating within Atmel and with its client indicated that the product defect was a serious problem;
3.) key Atmel executives knew the defect would be "very expensive" and that a claim was being considered by Atmel's client; and
4.) Atmel failed to make a reasonable inquiry to discover potential claims and report them on its application.

Outcome

Think Twice developed these themes in demonstratives for testing before a mock jury, and then refined them to be presented in court. On the eve of trial, our client was able to achieve a very satisfactory settlement of this dispute.







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