

Pre-Litigation & Risk Assessment Services

The best defense is a good offense. And, in product liability litigation, the best offense is one that begins long before a lawsuit is ever filed. Baker & Daniels' risk assessment and prevention services assist manufacturers, importers, distributors, and retailers in analyzing and preventing product liability risk.

From product development through product lifecycle, we protect our clients and their product lines in multiple ways.

RISK ASSESSMENT

Baker & Daniels' product liability lawyers have broad experience helping clients to identify and minimize product liability risk. Our professionals assess the liability risk associated with product design, modification, warnings, labeling, and complaint and claims handling, among other things. In addition, we monitor medical and legal developments and advise our clients on developments likely to impact their business interests.

By delivering high-quality and efficient advice in the following areas, our professionals help clients to minimize avoidable product liability risk:

- We identify federal and state laws and regulations governing product design, manufacture, and sale, and counsel clients on conformity with applicable laws and regulations.
- We analyze product labels, warnings, manuals, and instructions for use to help our clients communicate clearly with consumers, while minimizing product liability risk.
- We review marketing materials, including direct to consumer advertising, to confirm compliance with federal and state laws and regulations while minimizing consumer complaints and claims.
- We evaluate products to determine conformity with the Consumer Product Safety Improvement Act of 2008, and we assist our clients in creating appropriate and efficient compliance plans that include testing protocols, general and specific certificates of compliance, aids to assist employees in identifying testing and certification requirements, and communications to domestic and foreign suppliers, among other things. We also communicate with U.S. Customs on behalf of clients where shipments are held or delayed, and we communicate with the Consumer Products Safety Commission on issues related to compliance.
- We ensure that warranties are written to minimize claims and to comply with the Magnuson-Moss Warranty Act and individual state requirements.
- We analyze supplier and vendor indemnity and contribution agreements and determine whether risk is appropriately distributed.
- We strategize with clients on appropriate insurance coverage for product liability and recall risk

exposure.

PRE-LITIGATION SERVICES

Baker & Daniels positions its clients to prevent and, if necessary, better defend product liability actions. We focus on identifying potential sources of litigation, gathering documents and identifying key witnesses prior to product launch, and ensuring that processes are in place when and if litigation or a product recall occurs. Among other things, we provide the following pre-litigation services critical to the defense of product liability lawsuits:

- We identify and interview key personnel to gather core information about product development and design.
- We gather the documents central to product design, manufacture, marketing, and sale and assure storage of documents on a secured database.
- We establish complaint handling and investigation processes so that consumer complaints are efficiently addressed before they escalate into costly litigation.
- We conduct verdict and settlement research to assist clients in identifying potential exposure and likely outcomes in the event of litigation.
- We draft effective recall procedures and identify and train key personnel responsible for leading compliance efforts in the event of a potential product recall.
- We guide clients through product recalls and responding to the discovery of quality control allegations in a manner that minimizes litigation risk.

COMMUNICATION STRATEGY

Baker & Daniels' product liability lawyers assist clients in minimizing litigation by shaping both public opinion and the surrounding legal environment. We monitor legislation and rulemaking relating to product liability reform and advocate on behalf of clients before federal and state legislatures and administrative agencies. We keep clients informed of legal trends at both the state and national levels. In addition, our lawyers lecture and publish to shape the discourse of product liability law.

An ounce of prevention is worth a pound of cure. Baker & Daniels' risk assessment and pre-litigation services are a critical tool in minimizing product liability risk and litigation.

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