

26th Annual Drug & Medical Device Litigation Conference

DECEMBER 7, 2021 - DECEMBER 8, 2021

Winston & Strawn is a proud sponsor of ACI's 26th annual Drug & Medical Device Litigation Conference that took place from December 7-8. Considered the life sciences industry's premier products liability conference, the event featured:

- A hybrid virtual/in-person trial practice toolkit
- An FDA think tank
- New MDL focus sessions
- A spotlight on opioid and NDMA litigations
- Post-COVID-19 jury data
- A roadmap for post-Albrecht preemption

On December 8, Sandra Edwards spoke on a panel at the conference titled "Addressing the Recent Rise of OTC Product Liability Litigation," which examined the recent spike in OTC product liability litigation, increased scrutiny of chemical additives, and the role of consumer advocacy groups in targeting pharma and over-the-counter products. It also took a look at the recent withdrawal of titanium oxide from the safe food additive list.

Here are the key takeaways:

1. While the number of MDLs involving prescription drugs and medical devices, OTC products, and consumer goods has stayed surprisingly constant, the scale and scope of the MDLs has grown exponentially. The change in scale and scope is being driven by the number of defendants across all levels of the supply chain, the number of products involved, and the incredible volume of plaintiffs. The relatively constant number of MDLs also does not reflect the number of coordinated and individual proceedings in state court.
2. When litigation involving OTC begins, they quickly become massive—examples can be seen in the 3M ear plug and Zantac litigation. They are often accompanied now by consumer class actions.
3. Part of the uptick in OTC litigation is driven by the corresponding significant increase in sales of OTC products. Social media is also playing an increased role as a driver of the number of plaintiffs involved.

4. There has also been an increase in class action activity, including deceptive labeling class actions.
5. The validity of a claim for public nuisance in the context of product liability remains to be seen, but it is a claim increasingly asserted in OTC and product litigation.

To learn more about the conference, click [here](#).

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