LITIGATION MINUTE: 2023 YEAR IN REVIEW AND 2024 LOOK AHEAD

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WHAT YOU NEED TO KNOW IN A MINUTE OR LESS

In 2023, we published 16 editions of our Litigation Minute newsletter, featuring emerging topics posing increasing and significant risks to companies. In a minute or less, here are some highlights from our 2023 Litigation Minute newsletter.

Ethylene Oxide Litigation Series

Our February and March series covered ethylene oxide, an emerging chemical that has increasingly been the focus of regulatory bodies and the plaintiffs' bar. With lawsuits and regulatory proceedings still pending, the debate over the risk posed by ethylene oxide exposure continues today. Our edition discussing whether a company may be a litigation target garnered a significant number of views, and remains an important consideration for companies today following Sterigenics and Sotera Health's settlements of ethylene oxide litigation (US$408 million for nearly 880 claims in Illinois and US$35 million for 79 claims in Georgia).

In that vein, our edition on insurance coverage highlights some of the relevant considerations for companies who may face ethylene oxide claims in evaluating whether they may seek indemnity from their insurance carriers.

Session Replay Litigation Series

Our April and May series focused on the surge in lawsuits based on website tracking tools. We outlined how these lawsuits are generally centered on state wiretapping claims, and highlighted that any company with a website that uses analytics or other tracking cookies is potentially at risk. These claims show no signs of slowing down.

As is typically the case, prevention is key, and we suggested several steps companies can take in an effort to avoid being the target of one of these lawsuits.

PFAS Litigation Series

The rise in per- and polyfluoroalkyl substances (PFAS) litigation has brought attention to a complex landscape that has evolved beyond environmental claims and into consumer protection-based class action, where plaintiffs allege deception in product safety, sustainability, and disclosure of PFAS presence in wide range of products—from cosmetics to food packaging. Central to this evolving legal environment are questions concerning the foundation and validity of these claims, particularly when no apparent harm has been demonstrated.

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In our PFAS series, we explored the focus on FDA and state PFAS regulation, defenses and challenges to consumer protection-based class actions, and how early actions upon receipt of a complaint or a claim can affect insurance recovery.

Pixel Tool Litigation Series

Our series in August and September explored the uptick in website data privacy class actions, focusing on pixel tool litigation. We provided an overview of plaintiffs' claims, anticipated defenses, and immediate steps that companies might consider deploying in order to mitigate the risks associated with these novel claims.

New Year, New Issues

We look forward to continuing to share our latest thought leadership with you throughout 2024. In the New Year, we intend to focus on hot topics—including artificial intelligence, climate-related lawsuits, and issues related to standing—as they emerge and develop.

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