

Product Liability Lawyers at the Drawing Board: Risk Assessment Begins at the Beginning

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I used to jokingly tell people that when I moved from design engineering into the law I went from the most productive field in the world to the most counter-productive field. This joke plays on the common misconception that lawyers are risk-averse naysayers who stifle innovation and focus on how your products and innovations are certain to fail.

It's easy to see where this misconception comes from.

Lawyers live in the world of risk and damages. Our phones most often ring only after our clients have been hit with a lawsuit claiming their product either didn't do what it was supposed to do, or worse, that someone was injured because of their product.

Just as with dentists, preventative visits with your lawyer can help avoid expensive and painful emergency calls down the road. Lawyers can't prevent all potential liability, just as dentists can't prevent all cavities. What a good product liability lawyer can do though is share his or her experience and judgment, point out potential risks and help you make informed decisions.

It's often difficult to get the 40,000-foot view when you are living, breathing, and eating product development. It may be difficult for a design team to put themselves into the shoes of lay-consumers and identify all the potential uses, misuses, and risks the product may be put to.

Treating your product liability counselor as a part of your design and development team, whether in-house or outside, can help the team assess potential, foreseeable risks associated with your innovative products. While it may seem counter-intuitive, it is more efficient to engage counsel before problems arise. After all, it's far better to avoid a lawsuit than to win a lawsuit.

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