

## 5 Trends to Watch: 2024 Products Liability & Mass Torts

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1. **AI Issues are Potential Wild West of Mass Tort Territory** – The increasing use of Artificial Intelligence may cause the emergence of mass tort claims rooted in defective product design or defective code.
2. **Increased Use of Public Nuisance** – The expansion of the use of Public Nuisance as a means of assigning liability in mass torts is on the rise – particularly as the activity level of state attorneys generals increase. Rooted in real property jurisprudence, the doctrine is now at the center of several high-profile mass tort cases involving public health issues that do not fit neatly into the legal definition of strict liability. A Public Nuisance is one that has the potential to affect the health, safety, welfare, and/or comfort of the general public.
3. **Right to Repair Takes Center Stage in More State Legislatures** – The debate in state capitols over user safety versus right to repair issues is expected to continue and pick up speed.
4. **New PFAS Claims Emerge** – New PFAS-based claims are targeting consumer goods manufacturers and sellers, emphasizing false advertising, consumer protection violations, and deceptive statements made in marketing.
5. **Fallout from Changes to Federal Rule of Evidence 702** – Two tweaks to the rule may impact the use of expert testimony in federal courts. The changes are: (1) a court may not admit expert testimony unless the proponent establishes its admissibility by a preponderance of the evidence, and (2) a court must find that an expert's opinion follows from a reliable application of the methodology to the facts at issue.

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