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Anita Hotchkiss

PARTNER

EXPERIENCE

Anita Hotchkiss is a trial attorney with more than 40 years of experience defending companies and individuals in the state and federal trial and appellate courts. Her practice emphasizes complex pharmaceutical, medical device, and other products liability cases; mass torts; class actions; and medical and legal professional liability matters including disciplinary actions against physicians. Anita has tried over 35 cases and is one of the few attorneys in the country who has tried a medical monitoring class action. She is certified by the Supreme Court of New Jersey as a Civil Trial Attorney, and is fluent in Italian and Spanish.

Anita secured one of the first “junk science” dismissals in the country on the basis of *Daubert v. Merrell Dow*. She has been involved in other cutting-edge cases involving recognition of the learned intermediary doctrine, the privilege of self-critical evaluation, and dismissals based on bankruptcy, as well as rejection of the theory of enterprise liability and the over-extension of consumer fraud acts to skirt established tenets of liability. She has written several amicus briefs on behalf of the Product Liability Advisory Council in these and other cases of interest and importance to corporate defendants. In addition, Anita has served as an expert witness in evaluating thousands of mass tort cases for a multimillion-dollar company in a commercial dispute involving allocation of a \$100 million escrow.

Anita has an AV rating from Martindale-Hubbell and has been named repeatedly in New Jersey Monthly Magazine’s list of “Super Lawyers,” with special citation as one of the top 50 women attorneys in New Jersey and has been cited in the Best Lawyers in America. She lectures frequently to attorney and corporate members of national and local legal organizations on defense issues and tactics and was an invited member of the faculty at the prestigious International Association of Defense Counsel Trial Academy.

EXPERIENCE HIGHLIGHTS

Health Care and Pharmaceuticals

Anita’s experience defending and counseling health care companies, health care product manufacturers, and pharmaceutical companies spans numerous disciplines, including product liability, malpractice and professional liability, mass torts, and commercial litigation. Among the products Anita has defended are anesthetic agents, DES, DTP, flu and poliovirus vaccines, PPA, fen-phen, breast implants, denture adhesives, metoclopramide, sutures, artificial hips and knees, chemotherapeutic drugs, and phosphosoda. In the realm of medical liability, Anita has handled and tried to conclusion various types of professional malpractice actions including legal malpractice, medical malpractice, pharmacy malpractice, and dental malpractice, and she has handled disciplinary actions against hospital physicians. She has also tried to conclusion multiple pharmaceutical actions and has defended several major pharmaceutical companies in both individual and mass tort actions.

HONORS & AWARDS

- Litigation Counsel of America: Fellow
- AV Preeminent Peer-Review Rating, Martindale-Hubbell
- Avvo Rating: 10, Superb

PRACTICES

Class Action Litigation

Product Liability

INDUSTRIES

Life Sciences

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- *Best Lawyers in America*
 - Product Liability Litigation— Defendants, 2018–26
- New Jersey *Super Lawyers*, 2005–25
- Lifetime Achievement Award, *New Jersey Law Journal*, May 2015
- William A. Dreier Award for Excellence in Product Liability Law, New Jersey State Bar Association, February 2013
- Women Leaders in the Law, American Lawyer Media and Martindale-Hubbell, 2013
- *The International Who's Who of Product Liability Defence Lawyers*
- McLaughlin Award, New Jersey State Bar Association Civil Trial Bar Section, 2002
- Professional Lawyer of the Year Award, Morris County Bar Association and New Jersey Commission on Professionalism in the Law, 2001
- Named by *Medical Herald* as one of the nation's 20 most influential women in the health care industry, October 1995
- Certified by the Supreme Court of New Jersey as a Civil Trial Attorney

BACKGROUND

ADMISSIONS

- New Jersey
- New York
- U.S. District Court for the District of New Jersey
- U.S. District Courts for the Southern and Eastern Districts of New York
- U.S. Supreme Court
- U.S. Court of Appeals for the Third Circuit

EDUCATION

- Rutgers University, B.A. Italian and Art History, *summa cum laude*, with honors, 2019
- Rutgers University School of Law, J.D., with honors, 1975
- Rutgers Graduate School of Library Service, Master of Library Service, Reference, 1970 (Beta Phi Mu, International Library Science Honor Society)
- Bates College, high honors, 1959 (Phi Beta Kappa, *magna cum laude*)

PROFESSIONAL AFFILIATIONS

- New Jersey Supreme Court Appointments: Vice Chair, District X Ethics Committee, 2007-2011; Committee on Model Civil Jury Charges, 1994-1998; District X Committee on Fee Arbitration, 1985-1989; Chair, 1988-1989
- Defense Research Institute
- Fellows of the American Bar
- Product Liability Advisory Council, Appointed Member of Amicus Case Selection Committee
- New Jersey Civil Justice Institute Legal Advisory Board
- American Board of Trial Advocates
- Litigation Counsel of America: Fellow
- Trial Attorneys of New Jersey: Board of Trustees, 1981-2000; President, 1998-1999

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- Worrall F. Mountain Inn of Court; Master and Counselor, 1989-1996; 2001-2004; 2007-2011
 - American Bar Foundation; Elected Fellow, 1994 to present
 - International Association Defense Counsel (IADC), 1996 to present; Defense Counsel Trial Academy Faculty, 1996; Vice Chair, International Subcommittee
 - New Jersey Bar Association: Certified Trial Attorneys Section Chair, 1989-1990; Food, Drug & Cosmetic Law Committee, Chair, 1989; New Jersey Task Force on Women and the Law, 1989
 - Morris County Bar Association: Board of Trustees, 1984-1986; Judicial Appointments Committee, 1986-1998, (Chair, 1991-1998); Judicial Selection Committee, 2003-2005
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COMMUNITY INVOLVEMENT

- Commentator on Court TV and other radio and television programs
- The Community Theatre at the Mayo Center for the Performing Arts, Morristown: Board of Trustees – Secretary and Legal Counsel
- Morristown/Morris Township Public Library Fund Raising Committee, 2005

PUBLICATIONS & EVENTS

PUBLICATIONS

- Co-Author, “The Role of Preemption in Mass Tort Cases,” Chapter 15 in *New Jersey Mass Torts and Class Action Treatise*, New Jersey Institute for Continuing Legal Education, 2015
 - Co-Author, “**How to Win a Dismissal When the Plaintiff Declares Bankruptcy**,” chapter in *Product Liability Litigation: Current Law, Strategies, and Best Practices*, Practising Law Institute, January 2015 and December 2013
 - Co-Author, “**The Economic Loss Rule in NJ and the ‘Integrated Product’ Doctrine**,” *New Jersey Law Journal*, December 10, 2014
 - Author, “When the Plaintiff Declares Bankruptcy,” chapter in *Product Liability Litigation, Current Law, Strategies, and Best Practices*, Practising Law Institute (PLI), October 2009
 - Author, “Pharmaceutical Defendants — Heed This Warning,” *For the Defense*, April 2006
 - Author, “Boon for Defendants: The Road from Plaintiff’s Bankruptcy to Summary Judgment,” *The Update*, Spring 2006
 - Author, “Boon for Defendants: The Road from Plaintiff’s Bankruptcy to Summary Judgment,” *For The Defense*, January 2006
 - Author, “Like Water and Oil: Consumer Fraud Act Claims Should Not be Viable in Prescription Drug Product Liability Actions,” *New Jersey Law Journal*, December 5, 2005
 - Author, “Three for Three — N.J. Supreme Court Issues a Triad of Opinions That Should Please Defendants,” *Litigation Update*, November 2005
 - Author, “Protecting and Enforcing Protective Orders: Easier Said Than Done,” *Defense Counsel Journal*, April 2004
 - Author, “Protective Orders Redux: It’s Not Over Until the Twelfth of Never,” *Washington Legal Foundation Backgrounder*, January 12, 2001
 - Author, “Federal District Courts In New Jersey and Pennsylvania Reject Challenges to Protective Orders,” *Litigation Update*, November 2000
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PRESENTATIONS

- Panelist, “Multicounty Litigation (Mass Torts): Practice in New Jersey and Beyond,” New Brunswick, NJ, January 26, 2016
- Presenter, “The Role of Preemption in Mass Torts,” Product Liability Seminar — NJ Law Center, February 18, 2015
- Presenter, “The Economic Loss Doctrine in New Jersey — Now You See It, Now You Don’t,” NJICLE Construction Law 2014 Seminar, June 2014
- Presenter, “To Mock or Not To Mock — A Trial Lawyer’s Perspective on the Ins and Outs of Jury Science,” Medmarc 27th Medical Device Seminar, June 2014
- Presenter, “Medicare Secondary Payer Issues,” Presentation to Worral F. Mountain Inn of Court, Morristown, New Jersey, November 22, 2010
- Presenter, “The PLAC Amicus Brief Committee and How it Works,” Product Liability Advisory Council Fall Meeting, Williamsburg, Virginia, October 8, 2010
- Presenter, “Science Days for the Court — Pros and Cons for Defendants,” Medmarc Annual Meeting, Charleston, South Carolina, June 7, 2010
- Presenter, “Medicare Secondary Payer Issues,” Product Liability Advisory Council Fall Meeting, San Antonio, Texas, April 29, 2010
- Presenter, “Defense Summation in an Automobile Death Case,” demonstration at Masters in Trial, American Board of Trial Advocates, Montclair, New Jersey, December 5, 2009
- Panelist, “Pharmaceutical Manufacturers’ Challenges in Responding to Justice Department Litigation Based on ‘Whistleblower’ Allegations,” *American Law Journal* TV, October 12, 2009
- Presenter, “The Alphabet Soup of FDA Approval for Prescription Drugs,” Life Sciences Seminar, Warren, New Jersey, September 15, 2009
- Presenter, “Guilt by Association,” or “It’s Not Even our Product — What Do You Mean We’re Liable?,” presentation on innovator liability, Life Sciences Seminar, Warren, New Jersey, September 15, 2009
- Presenter, “Preemption After *Riegel* and *Wyeth v. Levine*,” Life Sciences Seminar, Warren, New Jersey, September 15, 2009
- Presenter, “E-Discovery – Turning the Tables on Plaintiffs,” Morris County Inns of Court, September 15, 2008
- Presenter, “Maintaining and Enforcing Protective Orders — Not Over Until the Twelfth Of Never,” Morris County Inns of Court, November 26, 2007
- Presenter, “Boon for Defendants: The Road from Plaintiff’s Bankruptcy to Summary Judgment,” Product Liability Advisory Council Fall Conference, October 2006
- Presenter, “Litigating the Off-Label Case,” National Forum on Off-Label Promotion of Pharmaceuticals, American Conference Institute, Philadelphia, Pennsylvania, September 23, 2005
- Presenter, “Keeping Corporate Secrets Secret: Protecting and Enforcing Protective Orders,” IADC Midyear Meeting, Pebble Beach, CA, February 17, 2003
- “Presentation of Evidence in the Electronic Courtroom,” ABA Litigation Section Meetings, Amelia Island, Florida, June 2001
- Presenter, “Crisis Management and Crisis Communication,” Product Liability Advisory Council 2001 Spring Conference, Nashville, TN, April 4-6, 2001
- Presenter, “The Presentation of Evidence in the Electronic Courtroom,” ICLE Product Liability: Update 2000, New Jersey Law Center, New Brunswick, NJ, December 2, 1999