



Publications

"HOW TO WIN A DISMISSAL WHEN THE PLAINTIFF DECLARES BANKRUPTCY," PRODUCT LIABILITY LITIGATION: CURRENT LAW, STRATEGIES, AND BEST PRACTICES

"A plaintiff who files for bankruptcy after being injured by a product or after suing the manufacturer may offer defense counsel a golden opportunity to dispose of the action," writes Anita Hotchkiss, a partner in Goldberg Segalla's Product Liability Practice Group, in the comprehensive treatise *Product Liability Litigation: Current Law, Strategies, and Best Practices*.

"If the plaintiff files for bankruptcy at any time after the injury, she has a duty to disclose these potential claims in her bankruptcy petition, even if suit has not yet been filed. Plaintiff's failure to disclose these claims may allow the defendant to move for summary judgment based on the theory of judicial estoppel, thus barring the plaintiff from continuing to pursue her product liability action. Alternatively, plaintiff may be held to lack standing to pursue the case."

Anita is the author of "How to Win a Dismissal When the Plaintiff Declares Bankruptcy," a chapter in this treatise published by Practising Law Institute (PLI). The treatise's recently published 2013 edition features an update of Anita's chapter (originally published in 2009), which provides product liability defendants and their counsel with a road map for securing dismissal of plaintiff's claims under these circumstances. It explores how the doctrines of judicial estoppel and standing may be applied in a product liability case, along with other critical issues that courts in different jurisdictions consider when applying these doctrines.

Product Liability Litigation: Current Law, Strategies, and Best Practices provides comprehensive legal, technical, and strategic knowledge that includes regulatory information to help companies avoid claims and litigation altogether, as well as case studies, checklists, sample documents, and other practical resources.

Learn more here:

Anita Hotchkiss, "How to Win a Dismissal When the Plaintiff Declares Bankruptcy," chapter in *Product Liability Litigation: Current Law, Strategies, and Best Practices*, Practising Law Institute, 2013

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