

LIFE SCIENCES INDEX 2026 **SPOTLIGHT ON:**

# Product liability litigation

Manufacturers and suppliers around the world are facing increased risk of product liability litigation, particularly collective action. Group action regimes and growing consumer protection concerns are driving this surge. For life sciences companies, this means increasing possibility of litigation and the need to proactively manage risk.

Class actions and mass torts are no longer rare occurrences; they're the defining feature of the modern product liability litigation landscape. The trend of large-scale group actions concerning pharmaceutical products and medical devices is gaining global momentum. But the pace of change varies significantly across jurisdictions.

The US leads the way. Canada, Australia, the UK and the EU (in particular, the Netherlands) are also key jurisdictions where defendants face group claims with significant exposure to financial or reputational damage.

But even in jurisdictions with established regimes, the landscape is dynamic. Claimants are trying to reframe product liability claims as consumer protection group actions seeking redress for anti-competitive acts. In the UK and US at least, this could lead to standardised damages in an opt-out class action (rather than mass tort or group litigation).

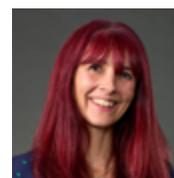
Each jurisdiction brings unique challenges. From punitive damages to onerous disclosure obligations. For life sciences actors with a global reach, one challenge is maintaining a consistent position across disparate regimes where claimant organisations might share information across borders and exacerbate the risk of new claims. This is particularly so where private international law makes it unlikely that consumers in disparate countries can group together to bring a product liability claim.

New laws in the EU, including the EU Product Liability Directive, are likely to intensify litigation risks. They could expand product definitions – including AI-based medical technologies and diagnostic tools – and extend deadlines for consumers to bring latent claims. Applying strict liability under product liability law (where a product is presumed to be defective) to an AI-based product will make it easier for consumers to prove a claim founded on use of a technologically complex product.

Claimants also face challenges. Not all jurisdictions are conducive to litigation funding – most notably parts of the EU. And, from a UK funder's perspective, the recent court-approved settlement in the Mastercard litigation, which materially limited the funder's recovery, may make funding consumer group actions less attractive.

All pharmaceutical and medical device products are heavily regulated, including with onerous pharmacovigilance requirements. So it will always be a challenge for a claimant to frame allegations that a supplier should have provided enhanced warnings or different labelling. While regulatory compliance isn't a self-standing defence in every jurisdiction, it can be a key consideration for a judge or jury in deciding whether a product was unsafe.

To navigate increasing risk, manufacturers and suppliers of life sciences products should focus on enhanced risk management. In litigation, historic product development and post-market surveillance activities might draw intense focus years after they took place. But with robust quality management, internal training systems and meticulous regulatory compliance, companies can protect their products against scrutiny.



**Siona Spillett**

Head of International Life Sciences  
Product Liability Litigation  
siona.spillett@dlapiper.com

[dlapiper.com](https://www.dlapiper.com)