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## Product Liability Cases To Watch In 2025

By **Emily Field**

Law360 (January 1, 2025, 8:01 AM EST) -- Cases that attorneys will be keeping an eye on in the coming year involve Monsanto and a circuit rift over preemption regarding Roundup cancer claims, as well as mass torts over claims that social media harm minors' mental health.

Litigation over weight-loss drugs that have gained popularity is another matter to watch. Here's Law360's list of cases for 2025:

### **Monsanto Preemption Cases**

In **September**, the Third Circuit declined to review a ruling from the month before that federal law preempts a Pennsylvania state law that orders cancer warnings on chemicals. That upheld a Monsanto victory in a case over a man's suit alleging that Roundup herbicide caused his cancer.

The court held that the Federal Insecticide, Fungicide and Rodenticide Act expressly supersedes state laws when it comes to chemical labeling requirements.

The Third Circuit reasoned that because the U.S. Environmental Protection Agency approved labels omitting cancer warnings, state law failure-to-warn claims going further are barred by the FIFRA.

The ruling affirms a split within appellate courts over the issue in the massive litigation, with the Ninth and Eleventh Circuits finding otherwise.

Lawyers anticipate that the matter may be reviewed by the U.S. Supreme Court, especially in light of the court's June decision in *Loper Bright Enterprises v. Raimondo*, which overturned a years-long precedent — the Chevron deference — that told judges when they could depend on federal agencies' interpretations of the law in rulemaking.

The company said in a statement at the time that the issue warrants the high court's review on preemption.

"If the Supreme Court is going to rule on it, then it would be a chance for the Supreme Court to provide more commentary about the overruling of the Chevron defense and *Loper*, and we could get another glimpse at how they are going to apply that thinking," Jillian Fox of Cozen O'Connor said.

Brant Johnson of Holland & Hart LLP agreed.

"The issue of federal preemption is something that lawyers, particularly defense lawyers like myself, spend a lot of time in almost every

case we handle, looking at any kind of decision by the Supreme Court," Johnson said.

## **Social Media Litigation**

A multidistrict litigation in **California federal court** includes hundreds of claims by parents of minors, school districts, and dozens of state attorneys general who say that giant social media companies like Instagram and Facebook design their algorithms to be addictive to young people.

U.S. District Judge Yvonne Gonzalez Rogers ruled last year that the platforms must face negligence claims, finding that some of their features, such as their lack of age verification, are similar to products.

That ruling came after a state court judge found that the algorithms are not products in consolidated litigation, though finding that the companies had to face negligence claims because they were not barred by the First Amendment or Section 230 of the Communications Decency Act.

The next case management conference before Judge Gonzalez Rogers is scheduled for Jan. 17.

In recent rulings, Judge Gonzalez Rogers has dismissed claims against Meta CEO Mark Zuckerberg, and she has issued lengthy orders trimming some claims, while leaving aside others.

"It's going to be interesting for people to understand what's happening and how the law is or isn't able to deal with some of these really complicated problems," Jonathan Orent of Motley Rice said.

## **GLP-1 Litigation**

The social media litigation has aspects in common with litigation over GLP-1 drugs, which are prescribed to treat type 2 diabetes, help with weight management and reduce the risk of cardiac problems, said Orent, whose firm is involved with both of those mass torts.

"These litigations are focused around the direct interaction between people and technology, Orent said. "That is a tremendously interesting thing because this is the beginning, I think, of these kinds of cases, and as AI comes out and becomes more broadly adopted in new and different ways, we're going to see human interaction continuing to change, and hopefully there won't be negative consequences. But history teaches us a different lesson, and unfortunately, there are going to be people who are going to need help as a result of that."

The plaintiffs in the **GLP-1 drug suits** accuse Novo Nordisk and Eli Lilly & Co. of failing to warn them about the risks associated with Ozempic and other such medications in the sprawling multidistrict litigation centralized in the Eastern District of Pennsylvania.

## **Cannabis and Psychedelics**

Among products whose legal status is evolving piecemeal across the country, Jonathan Havens of Saul Ewing LLP, co-chair of its cannabis, food and beverage practice group, said attorneys are monitoring how states are regulating marijuana, hemp and psychedelics.

Recently, the U.S. Department of Veterans Affairs announced that it was funding a study on psychedelics for post-traumatic stress disorder. It is still a policy item to watch under the incoming Trump administration.

Other states, such as Oregon and Colorado, are also initiating psychedelics programs, Havens said.

While Havens and fellow attorneys hope the federal government will take more action, onus for addressing these substances remains largely on the state level, according to Havens.

"They say states are the laboratory of democracy," Havens said.

Cannabis overall is an area with many moving parts, too.

"The winds of policy change can blow in different directions, and so it is important to pay attention to what's going on in D.C.," Havens said.

--Additional reporting by Dorothy Atkins and Lauren Berg. Editing by Peter Rozovsky.

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