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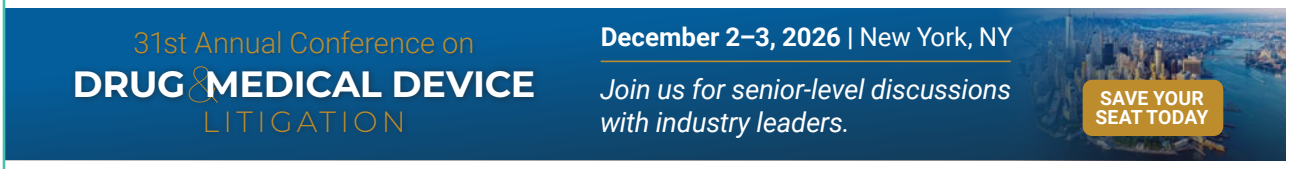
Social Media Litigation Is Using Pharma Torts Playbook

By Brenda Sandburg
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Social media litigation is shaking up the mass tort landscape, applying the law in new ways and raising questions about what's required to show a product caused an injury. While the cases present distinct and somewhat novel products liability issues, their outcomes could nevertheless impact future pharmaceutical and medical device litigation.

The legal theories driving social media and technology litigation will be discussed at a session of the American Conference Institute's upcoming Annual Conference on Drug & Device Litigation, to be held in New York City December 2–3. In an interview ahead of the meeting, session co-chairs noted what makes social media cases unique, their outcomes to date and issues to watch for in 2027.

"The cases are making law as they go, which is sort of a brave new world," Thomas Kurland, a partner at Patterson Belknap Webb & Tyler, said. "While plaintiffs rely on doctrinal law of negligence, nuisance, and strict products liability that we're familiar with in the pharmaceutical industry, they are applying it in new ways where traditional questions of causation and injury present differently."



Causation Hurdle

Traditional product liability cases claim an injury was caused by some combination of a design defect, a manufacturing defect, or a failure to adequately warn of a product's risks. While these theories are also being applied to social media litigation, Kurland said there's no clean box to plead these cases. Generally social media platforms are not "manufactured" in the traditional sense and are doing what they are designed to do—using algorithms to give people tailored content at high volume—so there is not a literal defective design, he said. And most cases claim individualized emotional harms, such as anxiety and depression, rather than a physical injury, which can't be diagnosed with a medical test and are hard to meaningfully warn users about in understandable terms.

Manuel Cachán, a partner at Skadden, Arps, Slate, Meagher & Flom, noted that social media platforms continuously change and produce algorithms that are different for each user. In addition, the injuries that the platform is alleged to cause aren't caused directly by the product but involve an intervening factor of human behavior.

In typical mass tort litigation, there is a claim that a physical product caused a specific disease and there is epidemiology related to that disease that can be evaluated by medical experts. By contrast, Cachán said social media cases involve multiple conditions and do not rely on epidemiological studies to establish a causal link between the products and conditions at issue. "Without the epidemiology, a lot of the evidence is just kind of vibes," he said.

Kurland also noted that in traditional pharma products liability cases, even if there is epidemiolocal evidence of an association between the product and the condition at issue, cases often fall apart when the parties get to the specific causation inquiry, and that "these social media cases are stretching the bounds of what we understand is required to show specific causation," he stated.

Jury Verdicts and Settlements

Thousands of suits have been brought in federal and state courts against Meta, Instagram, Snap, TikTok, ByteDance, YouTube, and Google alleging their social media platforms caused emotional and physical harms. Federal suits consolidated in multi-district litigation in the U.S. District Court for the Northern District of California claim that the platforms are defective because they are designed to maximize screen time, which can encourage addictive behavior in adolescents.

A suit by state attorney generals against Meta was the first bellwether case in the MDL to go to trial. It ended in August when Meta agreed to pay states up to $17 billion and add safety features to Facebook and Instagram to protect children, including default daily time limits on the platforms and a block on overnight use that can only be lifted by a parent.

In a separate suit brought by the state of New Mexico against Meta, a jury imposed a civil penalty of $375 million, and in August a judge ordered the company to pay an additional $567 million and implement platform reforms to protect children.

Nearly 2,500 complaints against social media tech companies have been consolidated in Los Angeles County Superior Court. In the first case to go to trial, K.G.M. v. Meta et al, a jury in March found that Meta and Google's social media platforms were defective because their infinite scroll features and algorithmic recommendations were designed to be addictive. The jury awarded the plaintiff, who claimed Facebook and Instagram caused her anxiety, depression and body dysmorphia, $6 million.

Meta and Google had sought summary judgment to dismiss the case, arguing that the claims of harm from recommended content were tied to third-party content on their platforms and thus barred by Section 230 of the Communications Decency Act or the First Amendment. Section 230 precludes providers and users of interactive computer services from being held liable for third-party content. But in a November 2025 order California Superior Court Judge Carolyn Kuhl allowed the litigation to proceed.

Impact on Drug and Device Litigation

Kurland said the broader causation theories argued in social media litigation, if they take hold, could show up in future pharmaceutical and medical device cases. "Right now, in a traditional products liability case you don't just need to prove that the product *could* cause harm, you need to prove that it actually *did* cause the harm to this particular plaintiff," he said. But if cases can proceed to a jury based on a claim like social media caused, for example, the loss of a job, "then we are eroding some quantum of what's required to show specific causation. Because ordinarily, you can't pin inchoate multifactorial harms on any particular factor."

Cachán noted that numerous factors are involved in mental health conditions, such as depression and suicidality, for each person and social media platforms are different for each person. "So, how do you prove causation?"

He said it is important to see how social media cases proceed in the coming year. Judges have permitted them to go forward and most have settled. It is hard to get enough information to resolve all these cases until there are more trials, Cachán said.

In addition to addiction cases, there are various personal injury complaints claiming the social media technology caused people to lose control of their judgment. One of these cases, Patterson v. Meta, arose from the 2022 mass shooting at a grocery store in a predominantly Black neighborhood of Buffalo. The survivors and family members of those killed sued several social media companies claiming their platforms were defectively designed to include content-recommendation algorithms that fed racist and violent content to the shooter and radicalized him.

A New York trial court denied the social media companies' motions to dismiss, but an intermediate appellate court reversed in a split decision, with the majority concluding that section 230 provides the defendants' immunity from the plaintiffs' tort causes of action. It also found that if the causes of action were based merely on the shooter's addiction to social media, they would fail on causation grounds. New York's highest court heard oral arguments in the case on September 15, and a decision remains pending.

Continue the Conversation at Drug & Medical Device Litigation

Hear leading litigators examine these evolving theories and what they could mean for pharmaceutical and medical device litigation at ACI's Annual Conference on Drug & Medical Device Litigation on December 2–3 in New York City.

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