

## NEWS & INSIGHTS

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### LIGHTFOOT LAUNCHES "TOP 10 Q&A" SERIES FOR PRODUCT LIABILITY CLASS ACTIONS

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Lightfoot recently launched its series "**Top 10 Legal Questions to ask When Sued in a Product Liability Class Action.**"

1. Is there federal subject matter jurisdiction under the Class Action Fairness Act? 28 U.S.C. § 1332(d)(2).
2. Is there personal jurisdiction? See *Bristol-Myers Squibb Co. v. Superior Court of California*, 137 S.Ct. 177 (2017).
3. Is there an arbitration agreement with an enforceable class action waiver? *AT&T Mobility LLC v. Concepcion*, 563 U.S. 333 (2011).
4. Can the plaintiff adequately represent the interests of all of the absent class members? *Amchem Products, Inc. v. Windsor*, 521 U.S. 591 (1997).
5. Does the plaintiff have standing to assert each claim? *Spokeo, Inc. v. Robins*, 136 S.Ct. 1540 (2016).
6. Is the class ascertainable? Compare *Carrera v. Bayer Corp.*, 727 F.3d 300 (3d Cir. 2013) with *Briseno v. Conagra Foods, Inc.*, 844 F.3d 1121 (9th Cir. 2017).
7. Does one law govern? Or do many laws govern? *Langan v. Johnson & Johnson Consumer Companies, Inc.*, 897 F.3d 88 (2nd. Cir. 2018).
8. Do any of the elements of the plaintiff's claims require plaintiff-specific proof? *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338 (2011). Possibilities include pre-suit notice, opportunity to cure, reliance, causation, and manifestation of the claimed defect.
9. Do any of the defendant's defenses require plaintiff-specific proof? Perhaps the statute of limitations, contributory negligence, assumption of the risk, product misuse, waiver, ratification or the voluntary payment doctrine.
10. Is the plaintiff's damages theory consistent with its liability theory? *Comcast Corp. v. Behrend*, 569 U.S. 27 (2013).

The content is written by the firm's class action and products lawyers. The team of lawyers has handled many product liability class actions, and they have defended class actions and MDL proceedings throughout the country.

Attorney **Sara Anne Ford** is the editor of the monthly series that addresses each of the 10 topics.