Product Liability / Over the Counter Medication

\$6,000,000.00 Settlement

Doug Abrams and Don Beskind of Raleigh and Pat Pope of Dunn report a settlement against the bankrupt maker of an over-the-counter medication and its owners and key executives. A confidentiality agreement precludes identifying the product, the Defendants, or the Plaintiff.

Facts/Allegations: Plaintiff alleged, and Defendants denied, that the product caused Plaintiff's colon to rupture. After the rupture, Plaintiff's surgeon created a temporary colostomy which was later reversed. Plaintiff filed suit for compensatory and punitive damages. Plaintiff contended that the product was falsely advertised as being safe and effective when Defendants knew that it had caused similar injuries in others. Eventually, after Plaintiff was injured, the product was banned by the FDA. In discovery, Defendants failed to respond to some of Plaintiff's requests for information, particularly information which Plaintiff asserted would have shown that the company knew of the problems with its product, and, in a effort to defraud its creditors, had transferred its assets to its principals who had moved the assets off shore.

Special Damages: Plaintiff's medical bills were approximately \$27,200.

Settlement: In response to Plaintiff's motion to compel and Defendants' less than complete compliance with court orders, two successive judges struck Defendants' answer, and a third was considering imposing judgment in the amount of Plaintiff's demand for monetary relief (\$10 million) when the case settled for \$6 million.

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