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"To Beep or Not to Beep: The Optional Equipment Defense," LJN's Prod. Liab. L. & Strategy, at 4, (April 2001).

Articles

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Co-authored with Lee Mickus

Some courts have recognized a defense to product liability lawsuits in which the seller offered optional equipment that would have prevented the harm. However, they have done so only when certain factual circumstances are present:

- The corporate defendant must demonstrate that the product at issue will lend itself to different uses, or to use in multiple environments.
- The corporate defendant must show that applicable regulations and industry standards do not require equipping the product with the optional safety equipment.
- The corporate defendant must demonstrate that the product purchaser is knowledgeable about the equipment at issue and the specific environment in which he or she will use the product.

The authors further state that evidence should focus on the product purchaser's informed and deliberate decision to forego the optional equipment; the types of evidence that typically support this assertion are outlined.

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