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Keep Your Advertising from Attracting a Lawsuit

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In many product liability lawsuits, plaintiffs allege that manufacturers' promotional efforts played a role in causing their injuries. Here's how you can reduce your risk, according to attorney Lawrence Savell, writing in *BrandWeek*:

Don't make promises. Don't use the words *guarantee*, *warranty*, or *promise*. Qualify your language by using less-definite words like *may*, *might*, or *could*, or by referring to results as *possible*, *estimated*, or *variable*. Also, make sure your product is depicted the way you want it to be in the photo or illustration, especially with regard to safety issues.

Realize the limitations of warnings. First, a plaintiff might argue that the warning was insufficient or that other laudatory statements undercut its effect. Second, a plaintiff might argue that the warning itself is a concession that you are aware of some inherent risk in using your product.

Think like a plaintiff. While the law allows some latitude in puffery or sales talk about products, be vigilant in evaluating all potentially troublesome language.

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