Shook, Hardy & Bacon L.L.P.

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PRODUCT LIABILITY LITIGATION REPORT

CONTENTS

U.S. SUPREME COURT: DOOR CLOSES ON VACCINE DESIGN-DEFECT CLAIMS

The U.S. Supreme Court has determined that the National Childhood Vaccine Injury Act of 1986 (Vaccine Act) preempts state-law design-defect claims for injuries allegedly caused by vaccines. ***Brusewitz v. Wyeth LLC*, No. 09-152 (U.S., decided February 22, 2011)**. The issue arose in a case involving a child who purportedly developed a seizure disorder and developmental delay after her pediatrician administered a diphtheria, tetanus and pertussis (DTP) vaccine. Additional details about the case appear in the March 18, 2010, **Issue** of this *Report*.

The child's parents sought compensation under the federal vaccine compensation program and were awarded attorney's fees and costs, but were otherwise denied compensation. They rejected the judgment and filed a lawsuit against the vaccine maker in state court, alleging that the vaccine's defective design was responsible for their child's injury. The case was removed to federal court, where both the district court and Third Circuit Court of Appeals determined that the claim was preempted by the following provision of the Vaccine Act:

> No vaccine manufacturer shall be liable in a civil action for damages arising from a vaccine-related injury or death associated with the administration of a vaccine after October 1, 1988, if the injury or death resulted from side effects that were unavoidable even though the vaccine was properly prepared and was accompanied by proper directions and warnings.

The U.S. Supreme Court majority agreed with the lower courts and interpreted this text to mean, "Provided that there was proper manufacture and warning, any remaining side effects, including those resulting from design defects, are deemed to have been unavoidable. State-law design-defect claims are therefore preempted." Writing for the majority, Justice Antonin Scalia notes that the section's "silence regarding design-defect liability was not inadvertent. It instead reflects a sensible choice to leave complex epidemiological judgments about vaccine design to the FDA [Food and Drug Administration] and the National Vaccine Program rather than juries."

The Court majority began its analysis by considering the policy reasons for creating a vaccine compensation program, noting the importance of limiting liability to stabilize the vaccine market and facilitate compensation. This prompted dissenting justices Sonia Sotomayor and Ruth Bader Ginsburg to contend that by preempting

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all design-defect cases under the Vaccine Act, "the Court imposes its own bare policy preference over the considered judgment of Congress."

According to the dissenters, the majority "excises 13 words from the statutory text, misconstrues the Act's legislative history, and disturbs the careful balance Congress struck between compensating vaccine-injured children and stabilizing the childhood vaccine market." They argue that the decision will leave "a regulatory vacuum in which no one ensures that vaccine manufacturers adequately take account of scientific and technological advancements when designing or distributing their products." They interpret the "even though" clause in the law as referring to the absence of manufacturing and labeling defects only and contend that the "if" clause sets forth a condition (unavoidable side effects) to invoke the section's defense to tort liability, which they would find is preserved under the law as to design defects.

U.S. SUPREME COURT: FEDERAL SAFETY REGULATIONS DO NOT PREEMPT AUTO-DEFECT ALLEGATIONS

The U.S. Supreme Court has ruled that federal motor vehicle safety standards giving manufacturers a choice as to the type of seat belt to install for the use of rear-seat passengers do not preempt state-law claims that, if successful, would deny manufacturers that choice and impose an obligation to install one type of seat belt only. ***Williamson v. Mazda Motor of Am., Inc.*, No. 08-1314 (U.S., decided February 23, 2011)**. According to the Court, "providing manufacturers with this seatbelt choice is not a significant objective of the federal regulation. Consequently, the regulation does not pre-empt the state tort suit."

The case involved a minivan accident in which a rear-seat passenger, who had a lap-only seatbelt to use, died. Litigation alleging that a combination lap-and-shoulder restraint would have prevented the death was dismissed as preempted by the California state courts considering the matter. More information about the case appears in the May 27, 2010, **Issue** of this *Report*.

According to Justice Stephen Breyer, writing for the Court, while the federal law's express preemption clause cannot preempt a common-law tort action because the law also has a savings clause for tort lawsuits, the savings clause cannot "foreclose or limit the operation of ordinary conflict pre-emption principles." Thus, the issue before the Court was "whether, in fact, the state tort action conflicts with the federal regulation."

Examining the regulation's history, the agency's contemporaneous explanation and its consistently held interpretative views about the choice given to manufacturers, the court concluded, "even though the state tort suit may restrict the manufacturer's choice, it does not 'stan[d] as an obstacle to the accomplishment … of the full purposes and objectives' of the federal law." The Court reversed the California Court of Appeal's judgment, and the claims will be allowed to proceed.

U.S. SUPREME COURT: FOIA PERSONAL-PRIVACY EXEMPTION APPLIES TO INDIVIDUALS NOT CORPORATIONS

The U.S. Supreme Court has ruled that a Freedom of Information Act (FOIA) exemption barring the release of law enforcement records whose release "could reasonably be expected to constitute an unwarranted invasion of personal privacy" is inapplicable to documents provided to a federal agency by a corporation. ***FCC v. AT&T, Inc.*, No. 09-1279 (U.S., decided March 1, 2011)**. Expressing the wish that "AT&T will not take it personally," Chief Justice John Roberts, writing for the 8-0 court, rejected its argument that "personal privacy" under FOIA reaches corporations because the statute defines "person" to include a corporation.

The case involved an investigation launched after AT&T voluntarily provided certain information to the Federal Communications Commission (FCC) arising from the company's participation in a program to enhance schools and libraries' access to advanced telecommunications and information services. AT&T apparently reported that it might have overcharged the government for its program services. While the FCC and AT&T resolved the matter through a consent decree, a trade association representing the company's competitors made a FOIA request for all pleadings and correspondence in the agency's files relating to the investigation.

The agency withheld some of the requested documents as "trade secrets and commercial or financial information," and it determined that other information would be withheld under FOIA exemption 7(C), the "unwarranted invasion of personal privacy" exemption, because it involved information about individuals. The exemption was not applied to the corporation itself, so AT&T sought review in the Third Circuit Court of Appeals, which determined that exemption 7(C) extended to corporations. The U.S. Supreme Court explored dictionary definitions and common usage to reverse the circuit court, finding that a corporation does not have "personal privacy" interests. The Court does not mention in the opinion that it extended First Amendment protections to corporations during its last term.

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OBESITY LAWSUIT AGAINST MCDONALD'S CONCLUDES

The parties in obesity-related litigation, brought on behalf of several teenagers against fast-food giant McDonald's Corp. in 2002, have filed a stipulation of voluntary dismissal with prejudice. *Pelman v. McDonald's Corp.*, No. 02-7821 (U.S. Dist. Ct., S.D.N.Y., stipulation filed February 25, 2011). The action followed entry of an order in December 2010 scheduling pre-trial discovery and motions filing and briefing for the individual claims remaining in this putative class action. A court refused to certify the action as a class in October.

Pelman was closely watched by industry and consumer advocates as it made several trips before the Second Circuit Court of Appeals that ultimately narrowed the issues for trial. It was expected to be ground-breaking litigation that would allow access to industry documents which plaintiffs' interests believed could be used to bring a flood of litigation against companies they blame for the nation's increasing incidence of obesity.

The only claims that would have gone to trial in *Pelman* were allegations that the teenagers' obesity-related health problems were caused by misleading advertisements which led them to believe that fast food could be consumed daily without any adverse health effects. The plaintiffs also alleged that the company failed to disclose that some product ingredients and processing were "substantially less healthy than were represented" and that its nutritional brochures and information materials were not readily available in company restaurants.

KENTUCKY ETHICS AUTHORITIES CALL FOR DISBARMENT OF FEN-PHEN COUNSEL

Following a hearing on the Kentucky Inquiry Commission's charge that plaintiffs' attorney Stanley Chesley violated a number of ethical rules in connection with the settlement of mass tort claims over the diet drug Fen-Phen, a trial commissioner has recommended that he be permanently disbarred and ordered to disgorge as restitution to his clients $7.55 million in excess fees. According to the February 22, 2011, report, which was submitted to the state supreme court, Chesley took more than $7 million in fees beyond his contractual agreement with co-counsel, and these sums were taken from the clients' settlement fund. He also allegedly took the fees with no notice to the clients and no disclosure or accounting in any court proceeding or court order.

The report claims that Chesley "willingly and actively" participated in a meeting with a judge to get his approval "upon this criminal enterprise" and Chesley "subsequently received all orders signed by Judge Bamberger containing many statements which Chesley knew to be false and inaccurate." The report also states, "His callous subordination of the interests of his clients to his own greed is both shocking and reprehensible. His actions justify a permanent disbarment from the Kentucky Bar Association." The trial commissioner notes that Chesley has "never been disciplined by any bar association in a long and distinguished career. But his character witnesses and his prior unblemished record are insufficient to mitigate Chesley's egregious conduct in this case."

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LOUISIANA SUPREME COURT RULES CHILD'S INJURY ON OIL PUMP NOT COMPENSABLE

The Louisiana Supreme Court has dismissed product liability claims filed against the company that made an oil well pump which a 13-year-old attempted to "ride"

and was seriously injured when his pants became entangled in its parts. ***Payne v. Gardner*, No. 2010-C-2627 (La., decided February 18, 2011)**. A Louisiana trial court granted the manufacturer's motion for summary judgment, stating, "The oil well, itself, was not unreasonably dangerous for its reasonably anticipated use; because it's [sic] anticipated use was for pumping oil and not riding." An intermediate appellate court reversed because it could not "conclude that the scintilla of direct evidence presented by [the child's mother] was insufficient to allow a reasonable juror to conclude [the manufacturer] … should have expected an ordinary person in the same or similar circumstances to use or handle the pumping unit in this way."

The state law governing the lawsuit permits liability for "damage proximately caused by a characteristic of the product that renders the product unreasonably dangerous when such damage arose from a reasonably anticipated use of the product by the claimant or another person or entity." According to the supreme court, "what constitutes a reasonably anticipated use is ascertained from the point of view of the manufacturer at the time of manufacture … [and] the use of the words 'reasonably anticipated' effectively discourages the fact-finder from using hindsight." When the pump was designed and made in the 1950s it was "manufactured solely for the purpose of extracting oil from the ground, and not for an amusement park ride." Any misuse of such pumps shown by cases the plaintiff submitted from other jurisdictions "involved occurrences well after the date the pump was manufactured."

Thus, the court determined that the plaintiff would be unable to satisfy her evidentiary burden of proof at trial because "on the state of the evidence, reasonable persons could reach only one conclusion, *i.e.*, riding the pumping unit was not a reasonably anticipated use of the unit at the time it was manufactured." Granting the manufacturer's motion for summary judgment, the court dismissed the plaintiff's claim with prejudice.

STATE AG LAWSUITS AGAINST LCD PANEL MANUFACTURERS BELONG IN STATE COURT UNDER CAFA

A federal multidistrict litigation (MDL) court in California has determined that lawsuits brought by state attorneys general cannot be removed to federal court under the Class Action Fairness Act (CAFA). *In re: TFT-LCD (Flat Panel) Antitrust Litig.*, MDL No. 1827 (U.S. Dist. Ct., N.D. Cal., decided February 15, 2011). The ruling affects lawsuits filed by Washington and California attorneys general alleging that the defendants, who manufacture liquid crystal display (LCD) panels, engaged in a price-fixing conspiracy, which resulted in state agencies and consumers paying inflated prices for products containing these panels. The defendants removed the actions to federal court where they were transferred to an MDL court with dozens of similar lawsuits. The states moved to remand their actions to their respective state courts.

Noting that "a state court action is only removable to federal court if it might have been brought there originally," the court explores the nature of a lawsuit brought by a state. According to the states, their actions "are *parens patriae* actions that are neither 'class actions' nor 'mass actions' under CAFA." The defendants argued that the states are not the real party in interest in such actions, and the court must "adopt a claim-by-claim approach because, due to CAFA's minimal diversity requirement, 'the presence of *any* real parties in interest other than the State creates the minimal diversity required by § 1332(d)(2)." The defendants contended that the attorneys general are representing a specific group of individuals who are the real parties in interest, and thus, minimal diversity is satisfied.

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Carefully parsing the claims, the court determined that the states "are the real parties in interest because both States have a sovereign interest in the enforcement of their consumer protection and antitrust laws…. Both states seek wide-ranging injunctive relief and Washington seeks significant civil penalties. The damages that California seeks, while on behalf of its consumers, would first be paid to the State and distributed on an equitable basis. The fact that private parties may benefit from the States' actions does not negate the States' substantial interests in these cases." The court also concluded that the actions could not be construed as "class actions" and that CAFA's "mass action" numerosity requirement was not met. The court granted the states' motions and remanded the actions to state court.

ALL THINGS LEGISLATIVE AND REGULATORY

House Republicans Amend Appropriations Bill to Pull Funding from CPSC's Product Safety Reporting Database

According to a news source, Representative Mike Pompeo (R-Kansas) successfully added a provision to a House spending bill that would stop the Consumer Product Safety Commission (CPSC) from launching a publicly accessible database on which product safety reports would be posted. Pompeo is apparently concerned about bogus complaints and lawsuits. "I'm an engineer," he said. "I love data. But I know what people put online. I think this is a plaintiff's bar dream."

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While is it not certain that the House bill will become law, given Democratic control of the Senate and opposition there to measures intended to scale back consumer protections, CPSC is clearly a target for business interests and Republicans. CPSC commissioners Anne Northup and Inez Tenenbaum also expressed opposing views on the safety database. Northup has urged Congress to prohibit the database's March 11, 2011, launch "until the Commission's regulations ensure that the information contained in a report of harm is verifiable, and the Commission has established an effective procedure for resolving a claim of material inaccuracy before a report of harm is put on the Database."

Meanwhile, Tenenbaum has reportedly championed the database as an early warning system for consumers. "If a mom uses the search function on the site, sees a series of reports of harm about a product she bought for her child and decides to take the product away from her child, while, behind the scenes, we are working to finalize a recall—that is a good thing in my opinion," she was quoted as saying. *See The New York Times,* February 21, 2011; *The Washington Post,* February 27, 2011.

House Committee Investigates CPSIA's Impact on Small Businesses

The House Energy and Commerce Subcommittee on Commerce, Manufacturing, and Trade recently held a hearing "to examine the unintended consequences" of the Consumer Product Safety Improvement Act (CPSIA) of 2008. Chaired by Representative Mary Bono Mack, (R-Calif.), the hearing focused on how small businesses were affected by the Act, particularly its requirements for third-party testing to certify that the lead content in children's toys does not exceed CPSC standards.

"As a mother, I have very strong, passionate feelings about protecting all children," Bono Mack said in a press release issued by committee Republicans. "But as a former small business owner, I know all too well how unnecessary regulations—even well intentioned ones—can destroy lives, too. This is a rare opportunity to put aside the differences that often divide this great body and put our heads together to make a good law even better."

Calling for the elimination of third-party testing of all children's products, Commissioner Anne Northup of the Consumer Product Safety Commission (CPSC) testified that such a move could allow CPSC "to retain its authority to impose such requirements only where necessary to address a risk." CPSC Chair Inez Tenenbaum, however, apparently opposes wholesale changes to CPSIA, preferring to give CPSC more leeway in exempting certain products from lead testing and help small toy manufacturers with third-party testing costs. *See House Energy & Commerce Committee Republicans Press Release* and *Anne Northup Safety and Common Sense Blog,* February 18, 2011.

NHTSA Continues Efforts to Provide Consumer Guidance on Fitting Child Safety Seats to Specific Vehicles

The National Highway Traffic Safety Administration (NHTSA) is **requesting** comments on its proposed consumer information program under which the agency "will make available information from vehicle manufacturers as to the specific child safety seats the manufacturers recommend for individual vehicles." Comments on all aspects of the proposed program are requested by March 28, 2011.

According to research on child restraint systems (CRS), installation mistakes that reduce or negate CRS effectiveness occur frequently and can be attributed to "incompatabilities between the child restraint and the vehicle." The document that the agency issued in the *Federal Register* for comment

According to NHTSA, the program should "make it easier for caregivers to select a child safety seat that fits in their vehicle."

"primarily details observations from an agency pilot study conducted to determine reasonable conditions for participation in a [consumer information] program. It also proposes a set of forms comprised of objective criteria which vehicle manufacturers can use to identify child safety seats that fit their vehicles." According to NHTSA, the program should "make it easier for caregivers to select a child safety seat that fits in their vehicle."

Under the voluntary program, NHTSA will ask participating vehicle manufacturers to recommend "at least three current model year child restraints within each of three different CRS categories (rear-facing, forward-facing, and booster). For the forward-facing category, at least one high-weight harness CRS shall be recommended, and for the booster category, no more than one of the three recommended booster seats may be a dedicated backless booster. Additionally, the three recommended CRS for each of the three CRS categories shall be from three different CRS manufacturers and shall also meet three established price points (inexpensive, moderately-priced, and expensive) based on the child restraint's Manufacturer's Suggested Retail Price."

According to NHTSA, the program will complement the agency's "Ease of Use program, 4 Steps for Kids consumer information campaign, as well as other child passenger safety initiatives," and "encourage child restraint and vehicle manufacturers to work together to address the need for increased compatibility." The agency also plans to "spot-check" the fit of recommended vehicle-CRS combinations. *See Federal Register,* February 25, 2011.

Federal Judicial Center Issues Pocket Guide for Judges on Sealing Records and Proceedings

The Federal Judicial Center has published "**Sealing Court Records and Proceedings: A Pocket Guide,**" which provides an overview of the relevant statutes and case law on the subject, as well as general considerations for courts facing such decisions and a procedural checklist. Among other matters, the pocket guide discusses national security, grand jury proceedings, discovery, trial evidence, and settlement agreements. The checklist notes that judicial officers, and not court clerks, must generally give permission to seal, motions to seal should be docketed to give the news media and the public an opportunity to be heard on a motion to seal, and "sealing should be no more extensive than necessary."

Legal Scholars Seek Ethics and Recusal Rules for U.S. Supreme Court Justices

More than 100 law school professors have submitted a **letter** to the Senate and House judiciary committees "to issue a nonpartisan call for the implementation of mandatory and enforceable [judicial ethics] rules to protect the integrity of the [U.S.] Supreme Court." Noting that the justices have not adopted and are not subject to a judicial ethics code, and observing that the Court's decisions "have the broadest impact, are frequently divisive, and often turn on the vote of a single justice," the authors contend that the justices should be required to adhere to the same rules as other judges. They also call for the implementation of an "enforceable, transparent process governing recusal."

The letter concludes by specifically requesting legislation to (i) "Apply a Code of Conduct for United States Judges to Supreme Court justices"; (ii) "Establish a set of procedures to enforce the Code's standards as applied to Supreme Court justices"; (iii) "Require a written opinion when a Supreme Court justice denies a motion to recuse"; and (iv) "Determine a procedure, or require the Court to do so, that provides for review of a decision by a Supreme Court justice not to recuse himself or herself from a case pending before the Court."

LEGAL LITERATURE REVIEW

John Goldberg, "Tort in Three Dimensions," *Pepperdine Law Review*, 2011

Harvard Law School Professor John Goldberg fleshes out tort law concepts in this paper to move beyond the "diametrically opposing tendencies" that an outside observer would glean by considering the narratives provided by plaintiff and defendant partisans. To support his thesis that U.S. tort law has much to contribute to the jurisprudence of other nations, Goldberg outlines its third dimension, "something distinct from the un-canalized delegation of regulatory authority to judges and juries that is championed by progressives and demonized by reformers. It is not an ombudsman. It poses to judges and jurors the circumscribed job of determining whether a tort—a breach of a relational norm of non-injury—has occurred, and if so, what remedy is due to the victim of the wrong. This is hardly an ignoble task."

Donald Childress III, "When Erie Goes International," *Northwestern University Law Review*, 2011

Pepperdine University School of Law Associate Professor Donald Childress discusses the *Erie* doctrine, which requires federal courts to apply the substantive laws of the states in which they sit, within the context of cases involving the potential application of the substantive laws of foreign countries. Arguing that the mechanistic application of a 1930s doctrine, updated with conflict-of-law principles developed in the 1940s and 1970s, to "the realities of private international litigation," is problematic, the author notes how federal courts increasingly rely on *forum non conveniens* to address cases raising international law issues. Childress suggests that federal courts "deal with the foreign law issue up front," rather than being forced to apply it "on the backend through the enforcement of judgments process."

Childress suggests that federal courts "deal with the foreign law issue up front," rather than being forced to apply it "on the backend through the enforcement of judgments process."

Under his approach, the courts (i) would apply foreign law where the parties have chosen or stipulated to it "so long as it is constitutional and does not frustrate federal policies," (ii) dismiss on inconvenient forum grounds those cases where the foreign law "is the only law that has any significant contact with the case," (iii) apply a federal conflict-of-laws rule to the extent that foreign law is selected in a state following the First Restatement and there are contacts with the forum state or another U.S. state, and (iv) finally "should seek to accommodate the varying federal interests at stake in the case."

LAW BLOG ROUNDUP

Calling All Ethics and Judicial Autonomy Experts

"First, does the Supreme Court need a code of ethics? If so, should Congress be the body that puts it together? Finally—and perhaps most importantly—is Congress actually empowered to make such a move?" *WSJ* legal writer Ashby Jones, blogging about the letter recently submitted to Congress by law school professors calling for the creation of an ethical code of conduct for U.S. Supreme Court justices.

WSJ Law Blog, February 25, 2011.

CPSC Product Safety Database on the Cutting Block?

"House Republicans are attempting to kill the new, publicly available Consumer Product Safety Commission product safety database by cutting off its funding." Georgetown University Law Center Professor Brian Wolfman, discussing Representative Mike Pompeo's (R-Kan.) proposal, recently approved as part of the House spending bill, to withhold the funds needed to implement the commission's product safety reporting system, which is slated to launch March 11, 2011.

CL&P Blog, February 28, 2011.

THE FINAL WORD

Empirical Research, Latest Trend in Legal Studies Raises Concerns

The National Law Journal reports that a new divide has cropped up in legal scholarship with more legal scholars embracing a "data-driven approach to research." Referred to as empirical legal studies and viewed as a major trend, proponents apparently contend that reliance on statistics gives their work credibility and can reach a larger audience than traditional legal scholarship. Some critics, however, suggest that empiricism is a fad that adds nothing to the classroom and does not help in teaching analytical reasoning. Among them is UCLA law professor Stephen Bainbridge who said, "A lot of people I see who are empiricists, often with doctorates in the social sciences, aren't very good lawyers. I've read numerous papers that just got the law wrong. The problem is that we're hiring people with Ph.D.s in other fields, but their law credentials are middling at best."

The article notes that a 2008 paper linking Louisiana Supreme Court rulings to campaign contributions was retracted after data problems were discovered. The students who review empirical legal studies for publication in law reviews reportedly lack the methodological background to do so, a problem that some journal editors are addressing by submitting the articles to outside reviewers. Still, with readily accessible sources of data, the empirical legal studies trend is not expected

to abate anytime soon, but some hope that it will eventually inform doctrinal work, and "[t]hings will settle down."

UPCOMING CONFERENCES AND SEMINARS

KCMBA, Kansas City, Missouri – March 11, 2011 – "Civil Jury Trial Demonstration." Shook, Hardy & Bacon Tort Partner Michael Kleffner will represent the defendant in a session on "Direct and Cross-Examination of Plaintiff's Non-Expert Witness" during this CLE program co-sponsored by the Young Lawyers Section of the Kansas City Metropolitan Bar Association and the UMKC School of Law.

ABA, Phoenix, Arizona – March 30 – April 1, 2011 – "2011 Emerging Issues in Motor Vehicle Product Liability Litigation." Shook, Hardy & Bacon is a conference co-sponsor. Tort Partner H. Grant Law is on the CLE planning committee and will serve as moderator for a panel discussing "Developments in Litigation Involving Component Manufacturers." Tort Associate Amir Nassihi is serving as CLE co-chair and will also participate in a panel that will discuss "Recent Developments in Products Liability Consumer Class Actions and Mass Torts." Shook, Hardy & Bacon Tort Partner Willie Epps will participate as the moderator of a session titled "Meet You in the Middle? The Art of Mediating a Catastrophic Injury Case." The distinguished faculty for this program includes general counsel for the National Highway Traffic Safety Administration and major corporations, a member of the National Transportation Safety Board, as well as a federal court judge and other experienced litigators.

DRI, Chicago, Illinois – May 5-6, 2011 – "Drug and Medical Device Seminar." Co-sponsored by Shook, Hardy & Bacon, this 27th annual CLE program will include a presentation by Pharmaceutical & Medical Device Litigation Partner Matthew Keenan, who will discuss "Rambo vs. Atticus Finch: Ethical Consideration and the Preservation of Professionalism in Drug and Medical Device Litigation." ■

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ABOUT SHB

Shook, Hardy & Bacon is widely recognized as a premier litigation firm in the United States and abroad. For more than a century, the firm has defended clients in some of the most substantial national and international product liability and mass tort litigations.

Shook attorneys have unparalleled experience in organizing defense strategies, developing defense themes and trying high-profile cases. The firm is enormously proud of its track record for achieving favorable results for clients under the most contentious circumstances in both federal and state courts.

The firm's clients include many large multinational companies in the tobacco, pharmaceutical, medical device, automotive, chemical, food and beverage, oil and gas, telecommunications, agricultural, and retail industries.

With 93 percent of our more than 500 lawyers focused on litigation, Shook has the highest concentration of litigation attorneys among those firms listed on the *AmLaw* ***100,*** *The American Lawyer's* list of the largest firms in the United States (by revenue).