Shook, Hardy & Bacon L.L.P.

JULY 31, 2014

PRODUCT LIABILITY LITIGATION REPORT

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FIRM NEWS

SHB Attorneys Publish in *Getting the Deal Through—Product Liability 2014*

Shook, Hardy & Bacon Pharmaceutical & Medical Device Litigation Partner **Harvey Kaplan** and Global Product Liability Partners **Simon Castley**, **Gregory Fowler** and **Marc Shelley** have published articles in *Getting the Deal Through—Product Liability 2014*. Kaplan **provided** a "Global Overview" for the volume, noting various changes in product liability practice and law throughout the world during the past year and observing that "product liability litigation on a global scale will continue to present new challenges for product manufacturers."

Castley has **authored** the England and Wales chapter; Fowler and Shelley have **co-authored** the chapter on U.S. product liability law. Each chapter describes the country's civil litigation system, how disputes are litigated, the respective roles of judge and lawyer, evidentiary issues, funding, sources of law, product liability theories and defenses, and trending issues. The U.S. chapter identifies the U.S. Consumer Product Safety Commission's proposed guidelines for voluntary recall notices and explains the potential "ripple effects" the proposal could have on product liability litigation.

Croft Authors Article on Nanotechnology Regulation in Europe and United States

Shook, Hardy & Bacon London Global Product Liability Partner **Sarah Croft** has assessed developments in nanomaterials regulation and their product-liability implications in an **article** for the July/August 2014 issue of *The In-House Lawyer*. In "Product liability and nanotechnology: an update," Croft describes the rising use of nanotechnology in textiles, cosmetics and food products and the regulations that the United States and Australia have adopted to alert consumers to the use of nanomaterials. She further documents the European Union's position on nanotechnology and the actions taken by individual European countries to regulate the use of nanomaterials in consumer products.

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SHB offers expert, efficient and innovative representation to clients targeted by class action and complex litigation. We know that the successful resolution of products liability claims requires a comprehensive strategy developed in partnership with our clients.

For additional information on SHB's Global Product Liability capabilities, please contact

Walt Cofer
+1-816-474-6550
wcofer@shb.com

Greg Fowler
+1-816-474-6550
gfowler@shb.com

or

Simon Castley
+44-207-332-4500
scastley@shb.com

or

Marc Shelley
+41-22-787-2000
mshelley@shb.com

SHB Attorneys Discuss Rule 30(b)(6) Depositions in *For the Defense* Article

Shook, Hardy & Bacon Global Product Liability Partners **William Yoder** and **Amy Crouch** and Associate **Melissa Plunkett** have **authored** an article titled "The Starting Point for Effective Rule 30(b)(6) Depositions" published in the July 2014 issue of DRI's *For the Defense*. They explain that the rule, which allows a party seeking to depose a knowledgeable corporate representative to request the deposition without identifying that individual, "places a significant burden on the organization being deposed" and discuss how courts have addressed whether the person so designated binds the corporation with her responses to certain deposition questions. They also discuss what constitutes "reasonable particularity," a requirement that parties seeking the deposition must meet in describing "the matters for examination," and provide tips for practitioners. The authors urge close study of the 30(b)(6) notice to determine if it provides grounds for challenge, for example, by not narrowly tailoring the request to the specific issues in the case. The article concludes, "It is the deposing party's obligation to identify those issues fairly so that there are no surprises."

CASE NOTES

Seventh Circuit Upholds State's Risk-Contribution Liability Theory

The Seventh Circuit Court of Appeals has ruled that a state's risk-contribution theory, under which a plaintiff is relieved of the traditional requirement to prove that a specific manufacturer caused his injury, does not violate the Due Process Clause of the U.S. Constitution and thus reinstated claims against companies that allegedly failed to warn the plaintiff about the purported dangers of white lead carbonate pigments used in lead-based paint. ***Gibson v. Am. Cyanamid Co.*, No. 10-3814 (7th Cir., decided July 24, 2014)**.

The issue arose in the case of an individual who allegedly developed neurological defects and other injuries from lead-based paint applied to the house into which he and his family moved in 1997; the house was built in 1919, and the paint was used at some time before 1978 when the U.S. Consumer Product Safety Commission prohibited paint makers from intentionally adding lead to residential paint. The named defendants were allegedly the pigment's primary producers.

Before reaching the merits of the defendant manufacturers' arguments, the court had to decide whether a state law, enacted while the lawsuit was pending, that retroactively extinguished risk-contribution theory in the state courts violated the state's due-process guarantee. The court determined that the statute did violate the state's due-process principles, because it extinguished the plaintiff's vested right in his negligence and strict-liability causes of action. Balancing the public and private interests at stake, the court found that while the law would allow businesses to operate in the state without fear of products-liability litigation based on risk-contribution theory, the plaintiff will have no remedy even if he can show that the

pigment manufacturers contributed to the risk of injuring him.

According to the Seventh Circuit, in dismissing the plaintiff's claims, the lower court erred in relying on a U.S. Supreme Court plurality ruling that overturned a law with retroactive application to coal miner pensions given that the decision "did not produce a binding precedent (other than its specific result) because no controlling principle can be gleaned from the plurality, concurrence (which was a concurrence in the judgment only), and the dissenting opinions." In the Seventh Circuit's view, the risk-contribution theory was neither arbitrary and irrational nor unexpected and indefensible. So ruling, the court reversed judgment in favor of the defendants and remanded for the lower court to reinstate the case and for further proceedings.

Muzzleloader Injury Claims Filed Too Late

The Seventh Circuit Court of Appeals has determined that an individual allegedly injured by a 14-year-old muzzle loading rifle filed his claims too late under Indiana's 10-year statute of repose for product-liability actions. ***Hartman v. EBSCO Indus., Inc.*, No. 13-3398 (7th Cir., decided July 10, 2014)**. At issue was whether the plaintiff could satisfy the statute's two exceptions—"where a manufacturer refurbishes the product to extend its useful life," or "where a defective new component is incorporated into the old product."

Here, the plaintiff installed a pellet conversion kit on his muzzleloader, which had been purchased as a gift for him in 1994. In 2008, the day after he installed the kit, the plaintiff attempted to sight it in and loaded two pellets with a patched round ball, in a manner not recommended by the pellet manufacturer due to the increased risk of unexpected discharge. The gun unexpectedly discharged, causing the ramrod and round ball to pass through the plaintiff's hands and forearm. He filed suit against several defendants in 2010, and the district court dismissed the claims, finding them barred by the statue of repose.

As to the first exception, the court determined that the plaintiff could not show that the conversion kit extended the useful life of the gun. While the kit could make the gun more powerful, it had no effect on "either the barrel or bore and therefore has no effect on how long the gun will be usable," the court said. The court also determined that it was unlikely the statute of repose "could ever be reset by a user-installed component like the conversion kit." As to the second exception, the court's review turned on the lower court's decision to exclude parts of the plaintiff's expert's testimony. According to the court of appeals, the lower court did not abuse its discretion in excluding the testimony and thus properly dismissed the claims.

Federal Court Finds Punitive Damages Available to Seamen Filing Unseaworthiness Claims

Addressing an issue of first impression, a multidistrict litigation (MDL) court in Pennsylvania has held that a number of seamen who brought unseaworthiness claims against ship owners for asbestos exposure may seek punitive damages, but

will have to amend their complaints, filed before the U.S. Supreme Court adopted its plausibility pleading standard, to plead their claims with sufficient factual allegations. *In re Asbestos Prods. Liab. Litig. (No. VI), Sanchez v. Various Defendants*, MDL No. 875 (U.S. Dist. Ct., E.D. Pa., decided July 9, 2014).

The court determined that "punitive damages are available as a matter of law to seamen bringing actions based upon the general maritime doctrine of unseaworthiness," but are not available in wrongful death and survival actions because, when it enacted the Jones Act to allow such claims, Congress placed limits on recovery, including not allowing punitive damages. The court also disagreed with policy arguments against allowing punitive damages in asbestos cases, finding that any potential excessive awards can be curtailed by the court and that some conduct may be so flagrant and egregious that this remedy could be justified.

Texas Supreme Court Opts for Substantial Factor Test in Mesothelioma Cases

Holding that the jury's causation finding was based on legally insufficient evidence, a divided Texas Supreme Court has affirmed a take-nothing judgment in a case seeking to hold Georgia-Pacific Corp. liable for Timothy Bostic's death from mesothelioma. ***Bostic v. Georgia-Pacific Corp.*, No. 10-775 (Tex., order entered July 11, 2014)**. So ruling, the court explored the use of the substantial factor and but-for causation tests in the context of asbestosis and mesothelioma cases, finding that the plaintiffs "were required to establish substantial factor causation, but were not required to prove that but for Bostic's exposure to Georgia-Pacific's products, he would not have contracted mesothelioma."

Brought by Bostic's relatives after his death, the case was originally tried in 2006, and a jury found Georgia-Pacific 75 percent liable for Bostic's asbestos exposure. The trial court awarded the plaintiffs an amended judgment of approximately $11.6 million, but the court of appeals rendered a take-nothing judgment after determining that the causation evidence was legally insufficient.

The Texas Supreme Court first rejected the plaintiffs' argument that showing "any exposure" to asbestos in materials provided by the defendant is sufficient to prove causation of the asbestos-related disease. The plaintiffs argued that because mesothelioma can be caused by small exposures to asbestos—as opposed to asbestosis, which requires large asbestos exposures before the disease develops—"any exposure" caused by Georgia-Pacific should be sufficient to prove liability. The court could not reconcile this argument with the fact, acknowledged by plaintiffs' experts, that asbestos is "very plentiful in the environment" in cities. "If any exposure at all were sufficient to cause mesothelioma," the court concluded, "everyone would suffer from it or at least be at risk of contracting the disease."

The court then determined whether to apply the "overlapping concepts" of but-for causation and the substantial factor test. The court of appeals' decision quoted *Borg-*

Warner Corp. v. Flores, 232 S.W.3d 765 (Tex. 2007), but appended but-for language to the end: "'In asbestos cases, then, we must determine whether the asbestos in the defendant's product was a substantial factor in bringing about the plaintiffs' injuries,' and without which the injuries would not have occurred."

The Texas Supreme Court rejected this appended language, holding that "in products liability cases where the plaintiff was exposed to multiple sources of asbestos, substantial factor causation is the appropriate basic standard of causation without including as a separate requirement that the plaintiff meet a strict but for causation test." Further, the court noted that "in multiple-exposure cases the plaintiff may find it impossible to show that he would not have become ill but for the exposure from that defendant." To support its reasoning, the court pointed to a similar conclusion from the Virginia Supreme Court, the *Restatement Second of Torts*' recognition that cases involving multiple causes of injury may require an alternative to strict but-for causation, and its own reasoning in *Flores*. The court held that the court of appeals erred in stating that the plaintiff must show but-for causation, but it still agreed that the evidence was legally insufficient to prove liability.

The court also discussed the application of *Merrell Dow Pharmaceuticals, Inc. v. Havner*, 953 S.W.2d 706 (Tex. 1997). Under *Havner*, "where direct evidence of causation is lacking, scientifically reliable evidence in the form of epidemiological studies showing that the defendant's product more than doubled the plaintiff's risk of injury" may be used to show legal causation in toxic tort cases. "These principles should apply to asbestos cases," the court held.

According to the court, "[T]he case as Plaintiffs tried it to the jury (1) relied on opening and closing arguments and on multiple experts who repeatedly testified that any exposure to asbestos should be considered a cause of Bostic's disease, (2) failed to quantify, even approximately, the aggregate dose, (3) failed to quantify, even approximately, the dose attributable to Georgia-Pacific, and (4) failed to show that the dose fairly assignable to Georgia-Pacific more than doubled Bostic's chances of contracting mesothelioma."

A concurring justice argued that the court's decision "set the evidentiary bar too high for future claimants" by changing the preponderance of the evidence standard in mesothelioma cases to incorporate *Havner*. "While the bulk of epidemiological studies appear to focus on occupational exposure, properly substantiated extrapolations can bridge the gap between those studies and the plaintiff who contracted mesothelioma from occasional exposure to asbestos," she wrote. Still, the justice concurred with the majority, finding that the plaintiff in this case failed to bridge that gap.

Three dissenting justices would have found that Bostic's submitted evidence was sufficient to sustain the jury verdict, in part because they believed that low asbestos exposures are sufficient to cause mesothelioma and, as such, evidence of any exposure should be sufficient to establish liability. The justices also disagreed that *Havner* applies to determine substantial factor causation, concerned that "the

Court's opinion today suggests that *Havner* is the exclusive measure of proof with respect to those questions in every toxic tort case." According to the dissent, "After today, the law in these types of cases will be that exposure to a single defendant's product is a 'substantial factor' in bringing about a plaintiff's injury only when that exposure would have been sufficient, by itself, to more than double the plaintiff's risk of developing a particular disease."

Wisconsin Supreme Court Adopts Plausibility Pleading Standard

In a split decision, the Wisconsin Supreme Court has adopted the plausibility pleading standard set forth by the U.S. Supreme Court in *Bell Atlantic Corp. v. Twombly* and reversed an intermediate appellate court ruling that reinstated a dismissed complaint alleging breach of fiduciary duty to minority shareholders in the sale of a company. ***Data Key Partners v. Permira Advisers LLC*, No. 2014 WI 86 (Wis., decided July 23, 2014)**. The court found that the federal and state pleading rules applicable to the cause of action were the same and that the plaintiffs had failed to plead sufficient facts to support their legal conclusions.

The three dissenting justices would have affirmed the lower court ruling. In their view, the plaintiffs set forth sufficient facts to plead around the business judgment rule and "provide notice to the defendants of the claim being alleged." They also asserted that "[n]o one is sure what *Twombly* means," it has "created confusion and chaos in the federal courts," it has not previously been adopted in the state, and it was not argued or briefed here. Thus, they concluded, the majority should not have relied on the "heightened pleading standard without any briefing or argument."

THE INTERNATIONAL BEAT

Comments Sought on Draft Class Actions Bill in the Netherlands

The Dutch Minister of Security and Justice issued a draft bill on the redress of mass damages in a collective action on July 7, 2014. Under existing law, collective actions may be used to reach a judgment on liability, but no mechanism had been provided to force a liable party to pay the claims. The proposal would establish a five-step process that focuses on negotiation and mediation to resolve damages disputes and develop the means, or "scheme," to provide redress. The first step involves consideration of whether legal entities bringing the collective claims have relevant expertise, can provide adequate representation and will safeguard the interests of putative class members who must be sufficiently numerous to justify the use of the collective damages mechanism. The entity must also have attempted to secure redress "amicably." If these requirements have been met, the court would then decide whether the defendant is liable and then guide negotiations to reach a collective settlement of the mass damages claim, including how class members will be compensated and the manner in which absent class members can be joined. Comments on the proposal are **requested** by October 1, 2014.

ALL THINGS LEGISLATIVE AND REGULATORY

Senate Bill Would Sanction Corp. Execs Who Hide Product Dangers

U.S. Sens. Richard Blumenthal (D-Conn.), Tom Harkin (D-Iowa) and Bob Casey (D-Pa.) have **introduced** a bill (S. 2615) that would criminalize a responsible corporate officer's concealment of a corporate action or product that poses a danger of death or serious physical injury to consumers and workers. The "Hide No Harm Act of 2014" would impose a prison term of up to five years and fines on a corporate employer, director or officer who knowingly violates the law. According to Sen. Blumenthal, "This measure would criminally punish corporate officials who conceal that a product is dangerous. Penalties for severely risking consumers' lives or health should be more than money paid by the corporation, in effect the cost of doing business." *See Sen. Richard Blumenthal News Release*, July 16, 2014.

Senate Approves Two CPSC Commissioners and Chair

The Senate has reportedly confirmed Elliot Kaye (D) to a seat on the U.S. Consumer Product Safety Commission (CPSC) and as its new chair. It also confirmed Joseph Mohorovic (R) as another new commissioner. Taken by voice vote, the July 28, 2014, action will allow the agency to move forward with its full five-member complement. Robert Adler (D), who has been serving as CPSC acting chair, is still awaiting approval for his second seven-year term at the agency, but his term does not expire until October. *See Law360* and *Bloomberg BNA Product Safety & Liability Reporter™*, July 28, 2014.

CPSC Proposes Sling Carrier Standard

The U.S. Consumer Product Safety Commission (CPSC) has **issued** a notice of proposed rulemaking indicating its intent to adopt a safety standard for sling carriers, used to carry infants from birth to a weight of about 35 pounds. The proposed rule would be based on the voluntary standard developed by ASTM International, ASTM F907-14a, "Standard Consumer Safety Specification for Sling Carriers," without change. Comments are requested by October 6, 2014.

According to CPSC, the commission is aware of 122 incidents (16 fatal and 106 nonfatal) involving sling carriers reported to have occurred between January 1, 2003, and October 27, 2013. Injuries are attributed to suffocation or falling out of the carrier, and CPSC has categorized the hazard patterns as (i) problems with positioning the infant in the sling carrier; (ii) caregiver missteps, such as slipping, tripping or bending over; (iii) undetermined or unspecified cause; (iv) buckle problems; and (v) miscellaneous, including design flaws such as a broken component, rough fabric or sharp surface. *See Federal Register,* July 23, 2014.

Report on Phthalate Safety in Children's Toys Disputed

The Chronic Hazard Advisory Panel's (CHAP's) **report** to the U.S. Consumer Product Safety Commission on the safety of phthalates in children's toys and child-care products has apparently generated mixed reviews with industry trade groups disagreeing about the need for recommended permanent bans on several phthalates at levels greater than 0.1 percent and consumer groups generally supporting CHAP's recommendations. Industry groups were also critical of the private, scientific peer review process for the report, claiming that it has established an "alarming precedent." Consumer groups agreed with recommendations to permanently ban DINP, DIBP, DPENP, DHEXP, and DCHP, but questioned why the report recommended lifting interim bans on DNOP and DIDP, identified as "potential developmental toxicants" and "potential systemic toxicants." They further commented on the report's lack of information about phthalate alternatives, but CHAP noted that the data on most are limited and called for appropriate U.S. agencies to "obtain the necessary exposure and hazard data to estimate total exposure . . . and assess the potential health risks." *See Bloomberg BNA Product Safety & Liability Reporter™*, July 21, 2014.

Buckyballs® Recall Fund Established

The U.S. Consumer Product Safety Commission (CPSC) has issued a recall for Buckyballs® and Buckycubes® and will provide refunds to those consumers who submit a claim to the **recall site** before January 17, 2015. The action concludes legal proceedings begun in July 2012 against Maxfield and Oberton Holdings, LLC, later amended to include its former owner Craig Zucker. He provided the funds for the recall Website. *See CPSC News Release*, July 17, 2014.

NHTSA Adopts Final Rule Changes on Early Warning and Foreign Defect Reporting

The U.S. National Highway Traffic Safety Administration (NHTSA) has **issued** a final rule responding to petitions for reconsideration filed after it published the rule in August 2013 amending certain parts of the early warning reporting (EWR) rule, foreign defect reporting and regulations governing motor vehicle and equipment safety recalls. NHTSA has made several changes to the rule, including delaying the EWR's effective date until January 1, 2015, and clarifying when reports will be due. It also made several other technical corrections. *See Federal Register*, July 28, 2014.

Vermont AG Files Complaint against Dollar Tree over Continuing Jewelry Sales

Vermont Attorney General (AG) William Sorrell has sued a national discount chain for allegedly violating a 2010 settlement requiring the company to stop selling jewelry in the state. ***Vermont v. Dollar Tree Stores, Inc.*, No. 420-7-14 (Vt. Super. Ct., Washington Unit, filed July 7, 2014)**.

According to the agreement, the defendant "had previously sold items of jewelry in Vermont that contained high levels of toxic lead," but agreed to stop selling "any product commonly understood to be jewelry." The AG complaint alleges that in violation of the ban, the defendant "subsequently sold over 30,000 items of jewelry—bracelets, earrings, rings, and necklaces" in the state. Alleging unfair and deceptive acts and practices, the AG seeks injunctive relief, civil penalties of up to $10,000 for each violation and the costs of investigation and litigation. *See Vermont AG Press Release*, July 22, 2014.

LEGAL LITERATURE REVIEW

Linda Mullenix, "Ending Class Actions as We Know Them: Rethinking the American Class Action," *Emory Law Journal* (forthcoming 2014)

University of Texas School of Law Professor Linda Mullenix calls for an overhaul of Federal Rule of Civil Procedure 23—the U.S. class action rule—finding that, much like the complex and arcane developments attending English common-law pleading before the mid-eighteenth century reforms, "current class action jurisprudence . . . creates traps for unwary pleaders and defenders, who frequently are able to find judicial support for any arguable position on either side of the class action docket." She specifically recommends (i) eliminating class categories; (ii) providing injunctive relief actions only, thus eliminating damage class actions; (iii) providing notice to claimants and adopting an opt-in principle; (iv) excising the 23(a) prerequisites and requiring instead a meaningful judicial inquiry into the need for collective redress of grievances, i.e., a preliminary merits review; (v) reforming the attorney-fee system and litigation financing to bar third-party financing, and adopting public financing funded by income tax check-offs, attorney-fee schedules and a loser-pay rule; (vi) establishing a national roster of veteran class litigators, pre-qualified as specialists to serve as class counsel; and (vii) requiring "more robust judicial scrutiny of settlement agreements, rather than *pro forma*, rubber-stamping reviews that simply endorse proffers by the settling parties." Mullenix suggests that more robust regulatory enforcement for the alleged violation of laws would be an apt replacement for the damage class action.

Riaz Tejani, "National Geographics: Toward a 'Federalism Function' of American Tort Law," *San Diego Law Review* (2014)

University of Illinois – Springfield, Department of Legal Studies Assistant Professor Riaz Tejani discusses federalism principles in the context of tort law in this article and attempts to guide adjudicators in making choices about whether to federalize or shield certain areas from federalization. He contends that "the struggle to locate a proper balance between state and federal authority is not an obstacle to tort law. It is and should be recognized as one of the very functions of tort jurisprudence today." Tejani rejects an all-or-nothing approach, instead calling for "a contoured approach whereby certain sectors of our social and economic life are better regulated on a federal level and others are better addressed through local norms."

Erica Goldberg, "Emotional Duties," *Connecticut Law Review* (forthcoming 2015)

While recognizing that scientists have been able to show that emotional injuries "have a physiological basis than can increasingly be measured," Harvard Law School Lecturer Erica Goldberg nevertheless defends the continued relevance of the physical/emotional harm distinction, "particularly in tort law." Among other matters she claims that the distinction can be justified by the types of duties we owe others and calls for the law to recognize that each of us has "a duty to reasonably regulate" our own mental condition. "An emotional duty of this type would foreclose certain types of lawsuits for emotional distress, or reduce damages permitted in those cases," she argues. She claims that this approach would "justify a good deal of tort law [and] unify its principle with other legal disciplines." Goldberg concludes, "Ultimately, this duty would benefit both plaintiffs and defendants and send a message that emotional health is serious, must be tended to prior to traumatic events, and can be within our own control."

LAW BLOG ROUNDUP

Seconds Thoughts About the *Restatement Third: Products Liability*?

"A major accomplishment of the American Law Institute's 1998 Restatement Third of Torts: Products Liability project is its disaggregation of product defects into categories warranting distinct legal treatment: manufacturing (or construction) defects, design defects, and failure to warn. Indeed this tripartite approach is at the core of the Restatement Third project, which was touted as 'an almost total overhaul of [the] Restatement Second as it concerns the liability of commercial sellers of products.' It may then seem surprising that James Henderson and Aaron Twerski—joint reporters for the Restatement Third project—have second thoughts about the categories they so adeptly forged." New York University School of Law Professor Catherine Sharkey, blogging about Henderson and Twerski's proposed reforms that would include a "reasonable alternative warning requirement" to fix a "doctrine in distress."

Jotwell: Torts, July 9, 2014.

THE FINAL WORD

Federal Judicial Center Finds Infrequent Social Media Use in Courtroom

According to a recent Federal Judicial Center study, of the 494 federal judges responding to a **survey** about jurors' social media use most indicated that they explain in plain language why social media is prohibited, and the warnings have apparently been effective—just 33 of the judges reported "any detectable instances of jurors using social media—and then in only one or two of their cases and mainly during trials." The judges find out about the social media use from other jurors, court

staff or attorneys and most cautioned the juror, while some removed the juror from the jury or dealt with the issue after trial. One juror was apparently held in contempt of court. As for attorney use of social media in the courtroom, most judges apparently do not know it is happening and most do not address the issue with attorneys before voir dire. Of the 466 judges who responded to a question about the use of social media to research prospective jurors, 120 do not allow attorneys to do so during voir dire. *See The Third Branch News*, July 29, 2014.

UPCOMING CONFERENCES AND SEMINARS

Perrin Conferences, San Francisco, California – September 8-10, 2014 – "Asbestos Litigation Conference: A National Overview & Outlook." Shook, Hardy & Bacon Public Policy Partner Mark Behrens will take part in a panel discussion on "Asbestos Compensation: The Impact of Bankruptcy on the Tort System." The firm is a conference co-sponsor.

OFFICE LOCATIONS
Denver, Colorado
+1-303-285-5300
Geneva, Switzerland
+41-22-787-2000
Houston, Texas
+1-713-227-8008
Irvine, California
+1-949-475-1500
Kansas City, Missouri
+1-816-474-6550
London, England
+44-207-332-4500
Miami, Florida
+1-305-358-5171
Philadelphia, Pennsylvania
+1-267-207-3464
San Francisco, California
+1-415-544-1900
Seattle, Washington
+1-206-344-7600
Tampa, Florida
+1-813-202-7100
Washington, D.C.
+1-202-783-8400

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 95 percent of our more than 440 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).