Shook, Hardy & Bacon L.L.P.

JANUARY 17, 2013

PRODUCT LIABILITY LITIGATION REPORT

CONTENTS

LAW FIRM NEWS

Wajert Provides List of Notable 2012 Product Liability Cases for *Law360*

The **first part** of a two-part summary of notable 2012 product liability decisions authored by Shook, Hardy & Bacon Global Product Liability Partner Sean Wajert appeared in the January 9, 2013, issue of *Law360*. While Wajert notes that from a defense perspective, the year "did not produce many momentous product liability decisions," there were "plenty of interesting decisions." They include an asbestos ruling from the California Supreme Court refusing to impose liability on a manufacturer whose non-defective product is added to post-sale with components containing asbestos, the use of a Lone Pine order to dismiss a lawsuit filed by toxic tort plaintiffs claiming that hydraulic fracturing had contaminated their well water, and the Texas Supreme Court's adoption of the learned intermediary doctrine in a prescription drug case.

SHB Attorneys Call for Reforms to Improve West Virginia Civil Justice System

Shook, Hardy & Bacon Public Policy Attorneys **Mark Behrens** and **Cary Silverman** have co-authored an **article** titled "WV's Resolution for 2013: Lose 'Judicial Hellhole' Label," appearing in the December 19, 2012, issue of *The State Journal,* a West Virginia business journal.

Noting that the American Tort Reform Association continues to include the state among "the worst places in the country for defendants seeking fair treatment in civil cases," the authors contend that the state could lose that status by (i) addressing "the use of outside counsel to sue on behalf of the state," (ii) providing "all litigants with a meaningful appeal," and (iii) moving "the state's liability law into the mainstream." They suggest that a new state attorney general, the establishment of an intermediate appellate court and recent high court rulings affecting civil plaintiffs presage the state's ability to improve its civil justice system.

Schwartz Authors New Letter to U.S. Trial Judges on Progress in Asbestos Litigation

Shook, Hardy & Bacon Public Policy Partner **Victor Schwartz** has authored an **article** titled "A Letter to the Nation's Trial Judges: Asbestos Litigation, Major Progress Made over the Past Decade and Hurdles You Can Vault in the Next," appearing in the most recent issue of the *American Journal of Trial Advocacy*.

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.

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The article details the progress made to address injustices in the asbestos claims system since Schwartz authored a similar appeal to the courts in 2000. He notes that many courts have adopted measures to make the system fairer for the sickest plaintiffs by deferring action on suits brought by unimpaired claimants, providing a more active gatekeeping role by screening for-profit screening company results and abandoning mass trials, among other matters.

Schwartz expresses concerns about secondhand exposure plaintiffs, liability asserted against companies that made products used with asbestos-containing components that they did not manufacture and "any exposure" theories asserted against defendants with small exposures. He concludes, "The war is still being waged but the battlegrounds have shifted to new issues. It is imperative that the trial courts continue the progress of the past decade and work to solve the issues of today."

Croft Focuses on Italian Mobile Phone Ruling; Questions Scientific Basis for Causation Finding

Shook, Hardy & Bacon Global Product Liability Partner **Sarah Croft** has authored an **article** appearing in the December 2012/January 2013 issue of *The In-House Lawyer*. Titled "Italian Supreme Court rules mobile phones can cause brain tumours," the article contends that the weight of the scientific evidence does not support a correlation between mobile phone use and the development of brain tumors, which has led to criticism of the Court's decision to award a pension to a man who claimed that heavy mobile phone use caused his neuroma and subsequent disability. Croft also observes that mobile phone makers, by complying with government guidelines on electromagnetic field emissions, are unlikely to be found liable for tortious conduct.

CASE NOTES

U.S. Supreme Court Considers Jurisdictional Threshold Issues Under CAFA

The U.S. Supreme Court heard argument on January 7, 2013, in a case raising issues about the amount in controversy for cases removed to federal court under the Class Action Fairness Act (CAFA). *Standard Fire Ins. Co. v. Knowles*, No. 11-1450 (U.S.). The litigation involves a homeowner's insurance policy dispute that was brought in state court as a putative class action. The named plaintiff filed a stipulation limiting his recovery and that of the class to avoid exceeding the federal court's jurisdictional minimum of $5 million. The plaintiff argued that the person bringing the complaint, acting in good faith, must be able to decide the amount in controversy. The insurance company argued that CAFA was intended "to protect defendants … against the kind of state court class action abuses that are occurring in Miller County, Arkansas" and that the individual plaintiff's stipulation was ineffective to limit class damages.

According to a news source, Miller County is known as a magnet for plaintiffs because the local courts have consistently ruled that decisions on threshold motions, such as subject-matter and personal jurisdiction, would be deferred for up to nine

years while discovery would proceed on all questions raised in the putative class complaints. Several local law firms have purportedly taken advantage of this oppressive discovery practice and earned $400 million in fees since 2008 from class-action settlements "that have been procured without a judge's ever having ruled that these cases are even worthy of class treatment, let alone meritorious." Many defendants evidently settled, given the pro-plaintiff tack of the state's high court when interpreting class-action law. The local law firms have reportedly taken to including recovery limitation stipulations with their class action pleadings in Miller County; they are also apparently representing the plaintiffs in *Standard Fire*. *See CNN Money* and *Mealey's Litigation Report: Class Actions*, January 7, 2013.

Federal Court Ousts Consumer Groups from Product Safety Database Litigation

A federal court in Maryland has granted the request of an anonymous company to reconsider its conditional grant of the motion to intervene filed by consumer groups in litigation challenging the U.S. Consumer Product Safety Commission's (CPSC's) decision to post an incident report about one of the company's products on the public product-safety database, saferproducts.gov. *Co. Doe v. Tenenbaum*, No. 11-2958 (U.S. Dist. Ct., D. Md., S. Div., decided January 11, 2013). The court granted the reconsideration motion so it could deny the motion to intervene. Additional details about the dispute appear in the December 13, 2012, **issue** of this *Report*.

According to the court, "The substantive dispute was between Plaintiff and the Commission. The Consumer Groups' objection to sealing was an ancillary issue that effectively became moot when the Court, after extensive analysis, determined that the Commission's action violated the APA [Administrative Procedure Act]. As the Court has discussed at length, forcing Plaintiff to reveal its identity and/or the underlying facts of the case to the Consumer Groups (or anyone else) would undermine the very rights and interests that Plaintiff filed suit to protect and that were ultimately vindicated. In short, the merits of the dispute and the issues related to sealing are inextricably intertwined." The court also noted that "the case SHALL remain under SUPER SEAL."

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Virginia Supreme Court Issues Ruling on Cause of Action Accrual in Asbestos Case

A divided Virginia Supreme Court, answering a question certified to it by the Third Circuit Court of Appeals, has determined that a plaintiff's cause of action for damages due to latent mesothelioma accrued not at the time of the mesothelioma diagnosis, but rather years earlier when the plaintiff was diagnosed with an independent, non-malignant asbestos-related disease. ***Kiser v. A.W. Chesterton Co.*, No. 120698 (Va., decided January 10, 2013)**. According to the majority, "the General Assembly did not abrogate the common law indivisible cause of action principle [when enacting Code § 8.01-249 (4)] and … a cause of action for personal injury based on exposure to asbestos accrues upon the first communication of a diagnosis of an asbestos-related injury or disease by a physician."

Here, the plaintiff's decedent was allegedly exposed to asbestos in the workplace from 1957 to 1985 and diagnosed with nonmalignant pleural thickening and asbestosis in 1988. He filed a timely lawsuit against numerous asbestos defendants in 1990, but voluntarily dismissed the complaint in 2010. He was also diagnosed with mesothelioma in November 2008 and died the following March. His widow filed a wrongful death action in October 2010 against 21 defendants, none of whom were parties to the first action. The case was consolidated by the Judicial Panel on Multidistrict Litigation and transferred to a federal court in Pennsylvania. The defendants sought to dismiss, claiming that the suit was barred by the two-year statute of limitations, and the plaintiff claimed that Code § 8.01-249 (4), enacted in 1985, abolished the indivisible cause of action theory and a new statute of limitations was thus triggered when her husband was diagnosed with mesothelioma in 2008.

According to the court, the statute, which imposes a two-year limitations period on asbestos lawsuits, lists separate asbestos-related diseases in the disjunctive, and by doing so, "the General Assembly merely indicated that the diagnosis of any one disease triggers the statute's application. … In other words, the General Assembly did not create a separate cause of action for each asbestos-related injury or disease." The court noted that in other jurisdictions, separate causes of action have been permitted for malignant and non-malignant asbestos-related diseases, but said that any change in policy on this issue is for the General Assembly to consider and not the courts.

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The dissenting justices argue that the Code is a discovery rule and "simply lists discovery rules applicable to the commencement of the running of the statute of limitations for specific categories of claims listed in the statute. The creation of such a discovery rule for asbestos cases negates the need for medical testimony to identify when the cancer likely developed … but it has no effect on the accrual of the cause of action." They opine that the majority's interpretation will "virtually guarantee that individuals who have asbestosis will be barred from recovering damages should they subsequently develop mesothelioma," in light of the relatively short latency period for asbestosis and "substantially longer latency period for mesothelioma."

Federal Jury Finds Asbestos Lawyers Liable for RICO Violations

A federal jury in West Virginia has reportedly awarded CSX Transportation more than $425,000 in a lawsuit against two Pittsburgh, Pennsylvania, attorneys and the doctor they hired to read X-rays, finding that the defendants violated the federal Racketeer Influenced and Corrupt Organizations Act and committed state-law fraud in the prosecution of 11 allegedly fraudulent claims by railroad employees against CSX. The company had argued that the lawyers employed "deliberately unreliable mass screenings" to recruit clients and coached them on asbestos exposure and smoking history issues. The attorneys said in a statement that the jury ignored testimony showing that the X-rays for these 11 railroad employees were "positive and consistent with asbestos" and that the attorneys had a reasonable basis and, indeed, an obligation to file the lawsuits. *See The Legal Intelligencer*, December 24, 2012.

Neutrogena Agrees to Settle Misleading "Natural" Ad Allegations for Nearly $2 Million

A federal court in California is scheduled to consider in February 2013 a motion for preliminary approval of a class-action settlement agreement in litigation alleging that Neutrogena Corp. misled consumer by advertising some of its products as "natural" with no petrochemical ingredients, when they do allegedly contain petrochemicals. *Stephenson v. Neutrogena Corp.*, No. 12-426 (U.S. Dist. Ct., N.D. Cal. – Oakland Branch, motion filed December 20, 2012). Under the agreement, Neutrogena will "change its product labeling to reflect the contents inside," "pay a total of $1,300,000 into a settlement fund for the benefit of Class members" and "not oppose an application by Plaintiffs to this Court for a partial reimbursement of Plaintiffs' attorneys' fees and costs, not to exceed a total of $500,000." While the company agreed to settle the claims, it did not admit liability and, in fact, indicates that it "has numerous defenses to the underlying allegations and the basis for certifying the Class."

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ALL THINGS LEGISLATIVE AND REGULATORY

President Signs Chinese Drywall Bill

President Barack Obama (D) has signed into law a **bill** to prevent "problematic" Chinese drywall from entering the United States. The new legislation bans high-sulfur building products and sets labeling provisions for drywall, requiring each sheet to include the manufacturer's name and the month and year that the product was produced. It also ensures that unsafe drywall will not be reused and will facilitate the process for alleged victims to take Chinese manufacturers to court to recover the cost of replacing purportedly dangerous drywall.

According to news sources, contaminated Chinese-manufactured drywall was imported and used in U.S. home construction from approximately 2001–2009. Studies of that material have shown that it can cause a corrosive environment for fire alarm systems, electrical distribution systems, gas piping, and refrigeration coils. The U.S. Consumer Product Safety Commission is required under the law to adopt a rule "that limits sulfur content to a level not associated with elevated rates of corrosion in the home."

The legislation directs the U.S. secretary of commerce to arrange a meeting between Chinese drywall makers and U.S. officials on how to provide remedies for affected homeowners. It also instructs the Commerce Department to insist that the Chinese government direct the companies that manufactured and exported problematic drywall to submit to U.S. court jurisdiction and comply with federal rulings. The National Association of Home Builders reportedly supported the legislation. *See Law360,* January 2, 2013.

Nap Nanny® Manufacturer Seeks Sanctions in CPSC Enforcement Action

The owner of Baby Matters, LLC, the maker of the Nap Nanny® portable baby recliner, has requested sanctions in a motion filed with the U.S. Consumer Product Safety Commission (CSPC) after the agency attempted to get the company's product pulled from the marketplace through a mandatory recall. CPSC instituted an administrative enforcement action against the company in December 2012.

Five infants have reportedly died while using Nap Nanny® recliners, and CPSC claims that the product poses a "substantial hazard" to babies. According to news sources, three weeks after the enforcement action was filed, CPSC released a statement claiming that it was illegal to sell the Nap Nanny® under federal law and that Amazon.com, Best Buy Baby and other retailers had all agreed to stop selling the recliner as part of a voluntary recall. Attorneys for Baby Matters allege that the release's indication that the sale of the recliner violated federal law was inaccurate, because it is only unlawful to sell or resell a product that is "subject to a voluntary corrective action taken by the manufacturer," subject to an order issued under the Consumer Product Safety Act, or a banned hazardous substance, none of which had occurred when the press release issued.

Lawyers for Baby Matters allegedly alerted the commission to the error and, "in an apparent intentional act to manipulate the news cycle, the commission waited until approximately 6:30 p.m. to correct its on-line version of the press release—after the news of the press release had achieved maximum impact," the motion states. Additional information about CPSC's Nap Nanny® enforcement action appears in the December 13, 2012, **issue** of this *Report*. *See Law360*, January 3, 2013; and *Philly.com,* January 4, 2013.

Buckyballs® Manufacturer Closes Its Doors

Maxfield & Oberton Holdings, LLC, the maker of Buckyballs® and Buckycubes® desk toys and the target of ongoing administrative action by the U.S. Consumer Product Safety Commission (CPSC) has stopped doing business. According to the company Website, the high-powered magnet manufacturer filed a Certificate of Cancellation with the Delaware secretary of state on December 27, 2012, thereby ceasing to exist under applicable state law. The company says that a liquidating trust has been established "to deal with and, to the extent they are valid, pay, to the extent assets are available, certain claims which have been, and may later be, asserted against the Company."

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The company has been embroiled in a dispute with CPSC since July 2012, when the agency brought an enforcement action against Maxfield & Oberton in an attempt to get the company to stop selling the toys, claiming that they are hazardous to children. Apparently, when children swallow the powerful magnets, they can pierce holes in the intestines, and some children have required multiple surgeries and

lengthy hospitalizations. In January 2013, CPSC posted on its Website a notice of withdrawal of appearance of counsel for Maxfield & Oberton, indicating that the company "no longer exists."

GAO Reports Restrictions on CPSC's Ability to Share Information with Foreign Counterparts

The U.S. Government Accountability Office (GAO) has issued a report which concludes that the U.S. Consumer Product Safety Commission (CPSC) faces certain legal restrictions involving information-sharing with foreign counterparts that could be hampering its ability to "identify risks from new products in a timely manner, possibly leading to injury and death if unsafe products enter the U.S. market." GAO also apparently found that the safety agency "faces challenges in collecting and analyzing large quantities of data in order to identify potential product risks." In the December 20, 2012, report, GAO calls on Congress to amend section 29(f) of the Consumer Product Safety Act "to allow CPSC greater ability to enter into information-sharing agreements with its foreign counterparts that permit reciprocal terms on disclosure of nonpublic information."

CPSC Brings Complaint Against High-Powered Magnet Products Maker

The U.S. Consumer Product Safety Commission (CPSC) has filed a **complaint** against Star Networks USA, LLC, another company that makes products consisting of "aggregated masses of high-powered, small rare earth magnets." Claiming that the products present a substantial risk of injury, CPSC contends that product instructions and warnings are inadequate and fail to effectively communicate that children who accidently swallow the magnets can be seriously injured or die because the products may stick to the intestines. Alleging that the products have been marketed as a toy, CPSC claims that they fail to comply with applicable safety standards. The agency seeks a public notification campaign about the alleged product dangers, institution of a refund program for purchasers, and an order requiring the company to cease importing and distributing the products. This complaint follows others filed against companies making similar desk toys. *See Federal Register*, December 26, 2012.

NHTSA Floats Rulemaking Proposals on Tires and Adding Sound to Hybrid Vehicles

The U.S. National Highway Traffic Safety Administration (NHTSA) has **issued** a notice of supplemental proposed rulemaking that would make certain minor revisions to Federal Motor Vehicle Safety Standard No. 119, which applies to new pneumatic tires for motor vehicles with a gross vehicle weight rating of more than 10,000 pounds (4,536 kilograms) and motorcycles. Public comments are requested by March 11, 2013. *See Federal Register*, January 10, 2013.

The agency has also **proposed** requiring that certain hybrid and electric vehicles, including motorcycles, emit sounds at low speeds. Noting that these types of vehicles are much quieter than traditional gas or diesel-powered engines, particularly

when operated at or slower than 18 miles per hour, NHTSA said that its proposal would fulfill congressional requirements in the Pedestrian Safety Enhancement Act "that hybrid and electric vehicles meet minimum sound requirements so that pedestrians are able to detect the presence, direction and location of these vehicles when they are operating at low speeds." Public comments must be submitted within 60 days of publication in the *Federal Register*. *See NHTSA Press Release*, January 7, 2013.

LEGAL LITERATURE REVIEW

John Langbein, "The Disappearance of Civil Trial in the United States," *The Yale Law Journal* (2012)

Yale University Professor of Law John Langbein considers the drastic decrease in the "proportion of civil cases concluded at trial" since the 1930s and explains why that happened and what it means to litigants. He contends that the fusion of law and equity in 1938 merged a system with a "primitive pretrial process," where fact investigation was possible only during trial, into a jury-free system of equity courts where techniques had been developed for litigants to secure testimonial and documentary evidence in advance of adjudication. With a new system of civil procedure focused on the discovery of documents and sworn depositions of parties and witnesses as well as case management and procedural devices to dismiss claims and cases long before trial, litigants are able to settle or dismiss cases without trial. Langbein characterizes modern tort litigation as "discovery to establish the facts, followed by settlement."

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Richard Freer, "The Supreme Court and the Class Action: Where We Are and Where We Might Be Going," Working Papers Series, December 2012

In this article, Emory University Law Professor Richard Freer analyzes the five class-action cases the U.S. Supreme Court decided in 2010 and 2011 and, noting that four more are on this term's docket, calls the Court's focus on aggregate litigation unprecedented. He discusses how the lower courts have reacted to the cases already decided and observes that the new cases are sequels to four of the five from the last two terms. Among his observations are the following: (i) "*Wal-Mart* finally puts to rest the silly notion that *Eisen* forbade courts from deciding facts related to the merits. The Court may have more to say about this in *Behrend*"; (ii) "*Wal-Mart* strongly suggests that expert evidence considered at certification must pass muster under *Daubert*. The Third Circuit missed this point in *Behrend*. I think the Court will reverse in *Behrend* and make the point unmistakable"; and (iii) "Under *Wal-Mart*, commonality under Rule 23(a)(2) is a higher hurdle than it was. As with pleading under *Twombly* and *Iqbal*, it is impossible to define 'how much' higher. The focus is undeniably less on raising common questions than on generating answers on a class-wide basis."

James Brudney & Lawrence Baum, "Oasis or Mirage: The Supreme Court's Thirst for Dictionaries in the Rehnquist and Roberts Eras," *Fordham Law Legal Studies Research Paper* No. 2195644, January 2013

Fordham University School of Law Professor James Brudney and Ohio State University Political Science Professor Emeritus Lawrence Baum discuss the U.S. Supreme Court's "expanding appetite for dictionaries" during the past 25 years and conduct a "detailed doctrinal review, leading to an innovative functional analysis of how the justices use dictionaries: as way stations when dictionary meanings are indeterminate or otherwise unhelpful; as ornaments when definitions are helpful but of marginal weight compared with more traditional resources like the canons, precedent, legislative history, or agency deference; and as barriers that preclude inquiry into or reliance on other contextual resources, especially legislative history and agency guidance." The authors opine that the Court's selective use of definitions "suggests that the justices use dictionaries primarily to buttress positions they have already reached rather than to try and establish the true or truly applicable meaning of a contested word." According to the article, "the justices' subjective dictionary culture is likely to mislead lawyers faced with the responsibility to construct arguments for the justices to review." They present a three-step plan for the Court to consider "to foster a healthier approach to its dictionary habit."

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LAW BLOG ROUNDUP

Second Circuit's *Twiqbal* Pushback Remains Intact

"The justices may, of course, decide later on to revisit circuit court interpretations of *Twiqbal*, but for now the cert. denial is undoubtedly good news for plaintiffs." *American Lawyer* Senior Writer Alison Frankel, commenting on the U.S. Supreme Court's decision not to review a Second Circuit Court of Appeals determination that antitrust plaintiffs are not required at the pleading stage to show that their claims are "more likely than not" to be true or that no other plausible, legal explanation exists for the defendants' actions. According to Frankel, the defendant magazine publishers had argued that the Second Circuit's ruling did not comport with the plausibility pleading standard that the Court established in *Bell Atlantic Corp. v. Twombly* and *Ashcroft v. Iqbal*.

Alison Frankel's On the Case, January 9, 2013.

Not Your Grandfather's Federal Circuit Courts?

"In short, the decision-making procedures in today's federal circuit courts would come as a complete surprise to Learned Hand or even Henry Friendly. Today, the vast majority of decisions are [sic] rendered by central staff, without the benefit of oral argument, and lack precedential appeal." University of Maryland Francis King Carey

School of Law Professor William Reynolds, blogging about the changes wrought by an increased workload in the federal circuit courts of appeals without a concomitant increase in judgeships. Reynolds claims that the judicial establishment has "resolutely refused to ask for enough judgeships to handle the load." He and University of Toledo School of Law Professor William Richman have apparently just published a book, *Injustice on Appeal*, to explore the implications of such developments.

Concurring Opinions January 11, 2013.

THE FINAL WORD

Record-Breaking Spending on Judicial Ads Logged in 2012

According to **information** from the Brennan Center for Justice at New York University School of Law and Justice at Stake, TV ad spending in state supreme court elections in 2012 climbed to $29.7 million on more than 51,000 ads, surpassing the previous record of $24.4 million spent in 2004.

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More than $1.9 million was reportedly spent in Louisiana, with some $429,000, more than any individual candidate, spent on TV ads by one outside group, the Clean Water and Land PAC. In 10 states—Alabama, Florida, Illinois, Louisiana, Michigan, Mississippi, North Carolina, Ohio, Texas, and West Virginia—TV ad spending exceeded $1 million.

UPCOMING CONFERENCES AND SEMINARS

AdvaMed, Miami, Florida – January 17-18, 2013 – "2013 Latin America Medical Device Industry Compliance Conference." Shook, Hardy & Bacon Life Sciences & Biotechnology Partner **Rob McCully** will serve as a panel moderator to address "Managing Third Party Distributors in Key Latin American Markets." SHB is a co-sponsor of the conference, described as "the most comprehensive medical technology meeting for device industry executives, specialty device industry lawyers, compliance professionals, international policymakers, and other industry stakeholders focused on Latin American compliance issues."

ASQ, Newark, California – January 23, 2013 – "NCDG January Roundtable." Shook, Hardy & Bacon Pharmaceutical & Medical Device Litigation Partners **Alicia Donahue** and **Eva Weiler** will join Food and Drug Administration Pacific Region Director Mark Roh during an American Society for Quality (ASQ) Biomedical Division presentation titled "'Write Right': Defensive Writing and Deposition Protection." Intended to help biomedical industry quality assurance and compliance professionals avoid the risks posed in litigation by "careless or emotional emails, voicemails or written documents," this regional program draws on insights that SHB Partner **Frank Rothrock** provided during the recent annual ASQ World Conference.

Shook, Hardy & Bacon L.L.P.

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JANUARY 17, 2013

GMA, Miami, Florida – February 19-21, 2013 – "Litigation Conference." Shook, Hardy & Bacon Agribusiness & Food Safety Co-Chair **Madeleine McDonough** joins a distinguished faculty and, during a general session, will discuss "Food Is NOT the Next Tobacco." Other speakers focusing on recent food and beverage litigation developments will include in-house counsel for major food corporations. Shook, Hardy & Bacon is a conference co-sponsor.

ABA Tort Trial & Insurance Practice Section, Phoenix, Arizona – April 3-5, 2013 – "2013 Emerging Issues in Motor Vehicle Product Liability Litigation." Shook, Hardy & Bacon Tort Partner **H. Grant Law** is an event co-chair, and Class Actions & Complex Litigation Associate **Amir Nassihi** serves as program chair for this annual CLE on motor vehicle litigation. Nassihi will also serve as a co-moderator for a panel discussion titled "The Blockbuster Development in Class Action Litigation"; Shook, Hardy & Bacon Global Product Liability Partner **Holly Smith** is scheduled to participate as a member of the panel. Nassihi and Tort Partner **Frank Kelly** will co-moderate a panel discussion on "Managing the Corporate Counsel Relationship: The Inside View on Diversity, Retention and Client Expectations." The distinguished faculty includes senior in-house counsel for major automobile makers and experienced trial and appellate counsel. Program sessions will address class action developments, litigating brake pad asbestos cases, regulatory developments, and issues unique to component parts manufacturers. Shook, Hardy & Bacon is a conference co-sponsor. ■

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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 95 percent of our more than 470 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).