Shook, Hardy & Bacon L.L.P.

APRIL 5, 2012

PRODUCT LIABILITY LITIGATION REPORT

CONTENTS

TAIWANESE COMPANY DID NOT TARGET STATE, CANNOT BE SUED FOR ALLEGEDLY DEFECTIVE BICYCLE PART

A federal court in West Virginia has dismissed claims against the Taiwan-based manufacturer of a quick-release hub part that allegedly caused a bicycle wheel to separate from the front forks when the plaintiff rode over a speed bump; the court determined that it lacked personal jurisdiction over the defendant because the company had not directed purposeful, commercial activity toward the state. *Eskridge v. Pacific Cycle, Inc.*, No. 2:11-cv-00615 (U.S. Dist. Ct., S.D. W. Va., Charleston Div., decided March 27, 2012).

Defendant Kun Teng Industry Co. (i) is not authorized to do business in West Virginia; (ii) does not sell or ship its products to the state; rather, the company sold its products to a Miami, Florida-based company and then shipped them to California; (iii) has never had an office or place of business in West Virginia; (iv) has never solicited or conducted business in the state; (v) has never advertised there; (v) has no representatives in West Virginia providing financial, tax or business advice; (vi) does not have distribution or sales agreements for products intended to be sold in the state; and (vii) has not made sales to any company in West Virginia.

Discussing a recent fractured U.S. Supreme Court ruling on jurisdiction over foreign defendants, the court decided that Fourth Circuit case law developed after *Asahi Metal Industry Co. v. Superior Court of California,* 480 U.S. 102 (1987), was binding on the court. Under this formulation of the "stream of commerce" test, "the court must find that Kun Teng created a substantial connection to West Virginia 'by action purposefully directed toward the forum state or otherwise invoking the benefits and protections of the laws of the state.'" The court concluded that "'[s]etting adrift' Kun Teng's parts is not enough to show purposeful conduct directed at West Virginia," and thus the defendant had not created "a substantial connection with the state." The court further denied the plaintiff's request to compel additional discovery on the matter finding that it would be no more than a "fishing expedition."

FEDERAL COURT DENIES CLASS CERTIFICATION REQUEST IN "MADE IN THE USA" TOOLS CASE

In the last remaining case of multidistrict litigation alleging that Sears, Roebuck & Co. misled consumers by advertising its line of Craftsman tools, now mostly made abroad, as manufactured in the United States, a federal court has dismissed a count

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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brought under federal warranty law and denied the plaintiff's motion to certify a statewide class of claimants. *In re: Sears, Roebuck & Co. Tools Mktg. & Sales Practices Litig.*, MDL No. 1703, *Greenfield v. Sears, Roebuck & Co.*, No. 05 C 4744 (U.S. Dist. Ct., N.D. Ill., E. Div., decided March 22, 2012).

According to the court, "Made in the USA" is not a "written warranty" "because it does not affirm or promise that the material or workmanship is defect-free or will perform at a specified level over a specified time," elements of a cause of action under the federal Magnuson-Moss Warranty Act. The court also rejected the plaintiff's argument that he should be permitted to pursue the claim as a breach of implied warranty under the Act, finding that the plaintiff had not alleged this claim in his complaint and it was too late to permit an amendment. The court also noted that the phrase "Made in the USA" could not be both an express and an implied warranty.

The court refused to certify a class to pursue the state-law based claims, finding that the putative class is overbroad and the plaintiff failed to satisfy Rule 23's typicality and predominance requirements. According to the court, because each individual plaintiff would have to show that the alleged "Made in the USA" misrepresentation caused him or her damage, each claim would require individualized proof of reliance. The court also agreed with the defendant that the litigation involved thousands of different products, each of which was individually advertised, marketed and labeled over a period of 10 years, which would require individualized evidence as to causation. The court set a status hearing for April 28, 2012.

ILLINOIS SUPREME COURT ALLOWS FURTHER DEVELOPMENT OF SECONDHAND ASBESTOS INJURY THEORY

A divided Illinois Supreme Court has decided that a plaintiff has insufficiently pleaded that an employer owed a duty of care to a woman who died from mesothelioma after purportedly being exposed to asbestos on her husband's clothing from 1958 to 1964. ***Simpkins v. CSX Transp., Inc.*, No. 2012 IL 110662 (Ill., decided March 22, 2012)**. The court remanded the matter to allow the plaintiff, the administrator of the decedent's estate, to amend her complaint to "allege facts specific enough to analyze whether, if those facts were proven true, defendant would have been able to reasonably foresee plaintiff's injury." Two dissenting justices would have ruled that secondhand asbestos exposure creates no liability as a matter of law and thus dismissed the claims.

The plaintiff had apparently alleged that the defendant "actively created the relevant risk of harm by using materials containing a known toxic substance in a way that caused that substance to escape and directly expose decedent to harm from inhaling the railroad's asbestos." She also alleged that the decedent's exposure was foreseeable and could or should have been anticipated by the defendant. According to the court, "what is considered *reasonably* foreseeable depends on what information about the nature of asbestos was known at the time of plaintiff's

alleged exposure and, therefore, what information defendant could reasonably be held accountable for knowing. Thus, though duty is always a question of law, in this case the attendant foreseeability question turns on specific facts regarding what defendant actually knew about the nature and potential harms from asbestos from 1958 to 1964 or what defendant should have known at that time."

COURT REFUSES TO FIND ASBESTOS CLAIMS PREEMPTED IN TALCUM POWDER LAWSUIT

A New York trial court has determined that a 1997 amendment to the Federal Food, Drug, and Cosmetics Act preempting state law claims relating to the labeling and packaging of cosmetics does not preempt the claims of a plaintiff with mesothelioma who alleged that she was not adequately warned about the asbestos in the Cashmere Bouquet® talcum powder she used from 1950 through the late 1980s. *Feinberg v. Colgate-Palmolive Co.*, No. 190017/11, decided March 22, 2012). So ruling, the court denied the defendant's motion to dismiss.

According to the court, the preemption clause in the labeling law cannot be applied retroactively "to events that had their genesis more than 45 years before it existed, and which ceased to occur almost twenty years before Congress sought to legislate the labeling of cosmetic products." The court explained that the clause does not contain a retroactivity provision nor does the "plain language of the statute [imply] that the legislature intended it to be applied retroactively." In this regard, the court noted that the statute actually contains a savings clause which states, "Nothing in this section shall be construed to modify or otherwise affect any action or the liability of any person under the product liability law of any state."

The court further observed that the Food and Drug Administration (FDA) has never "issued a formal, binding regulation regarding the content labeling of cosmetic talc products. Absent this critical component, there is no preemption." The court rejected the defendant's contention that a 1983 FDA response letter denying an individual's request that an asbestos warning label be placed on cosmetic talc products constituted federal regulatory activity, finding that, "at best," it was an expression of FDA's "informal opinion at the time" and reflected an agency determination that "asbestiform minerals" were no longer being used in talc.

PUTATIVE CLASS CHALLENGES VALIDITY OF "MAGNETIC WAVE TECHNOLOGY" THERAPEUTIC CLAIMS

A California resident has filed a putative statewide class action against a company that purportedly makes a line of products "labeled and advertised as possessing 'Magnetic Wave Technology'" and "falsely implies that the magnets have a therapeutic value, when in reality there is no scientific evidence that the magnets are of any therapeutic or any other health-related value." *Post v. Homedics, Inc.*, No. RIC 1204417 (Cal. Super. Ct., Riverside County, filed March 27, 2012).

The plaintiff claims that he purchased one of the company's products for pain relief, used it as directed and found that it was "useless to him." The plaintiff cites the National Science Foundation and the *British Medical Journal* to assert that "magnetic therapy" cannot treat pain or any other ailment. Alleging violations of the California Consumers Legal Remedies Act, Business and Professions Code and False Advertising Law, the plaintiff seeks statutory damages of no less than $1,000 for each class member and $5,000 for each class member who is a senior citizen, punitive damages, restitution, disgorgement, equitable remedies, interest, attorney's fees, and costs.

ALL THINGS LEGISLATIVE AND REGULATORY

CPSC Considers Proposed Rules on Accrediting Labs That Test Children's Products

The Consumer Product Safety Commission (CPSC) was poised to vote on staff recommendations for a **proposed rule** on accrediting third-party laboratories that test children's products and a draft **final rule** on audit requirements for such laboratories. Scheduled for consideration during CPSC's April 4, 2012, meeting, the proposals apparently reflect practices in effect since the Consumer Product Safety Improvement Act passed in 2008. Third-party testing is required for all children's products, and CPSC Chair Inez Tenenbaum reportedly said recently that enforcing the new testing mandates is a top agency priority. *See Bloomberg BNA Product Safety & Liability Reporter*, March 26, 2012.

House Committee Approves Bill Linking Adoption of Major Agency Rules to Jobless Rate

The House Judiciary Committee has approved a bill (**H.R. 4078**) that would prohibit federal agencies from taking any "significant regulatory action" until the U.S. unemployment rate "is equal to or less than 6.0 percent."

A significant regulatory action is defined as a rule or guidance that may (i) "have an annual cost to the economy of $100,000,000 or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, small entities, or State, local, or tribal governments or communities"; (ii) "create a serious inconsistency or otherwise interfere with an action taken or planned by another agency"; (iii) "materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof"; or (iv) "raise novel legal or policy issues."

Committee Chair Lamar Smith (R-Texas) said during the full committee markup of the proposal, "The Obama administration has quickly turned the United States into a regulation nation. This administration has adopted an unprecedented amount of costly new regulations, which hinder small business growth and stall job creation." Approved by a 15-13 vote along party lines, the bill has a companion before the Senate (S. 1438) on which no action has been taken.

Leahy to Propose Legislation to Reverse SCOTUS Ruling on Generic Drugs

Senator Patrick Leahy (D-Vt.) has announced plans to introduce legislation that would reverse a U.S. Supreme Court ruling that barred as preempted state-law inadequate-warning claims against the manufacturers of generic drugs. Federal law requires that generics have the same labels as brand-name drugs, and the Court found that, while brand-name manufacturers may be sued for providing inadequate warnings in light of federal law permitting them to update their label warnings, because generics cannot do so, they cannot be sued even if they know their warnings are inadequate. Leahy has apparently been drafting a proposal that would permit generic drug makers to improve the warnings on their products just as brand manufacturers do. *See Senator Patrick Leahy Press Release*, March 26, 2012.

NHTSA Proposes Seatbelt Assembly Anchorage Testing Amendment

The National Highway Traffic Safety Administration (NHTSA) has issued a **proposed rule** that would amend Federal Motor Vehicle Safety Standard No. 210 by specifying a "new force application device for use as a testing interface to transfer loads onto the seat belt anchorage system during compliance tests of anchorage strength." NHTSA requests comments by May 29, 2012.

Standard No. 210 applies to seatbelt assembly anchorages in passenger cars, multipurpose passenger vehicles, trucks, and buses and establishes requirements to ensure the anchorages "are properly located for effective occupant restraint and to reduce the likelihood of their failure" in the event of a crash. It also requires that these anchorages "withstand specified forces." The proposal calls for the introduction of two new force application devices (FADs) and directions for their use to replace current pelvic body blocks used during loading. The new FADS would come in two sizes: one for a mid-size adult male, the other for a small occupant. According to NHTSA, the FADs would "provide a consistent test configuration and load path" and "are significantly easier to use than current body blocks."

Planned to take effect 180 days after the final rule is published, the agency has proposed that manufacturers have an additional three years to comply, indicating that it will use the FADs to test vehicles manufactured on or after the first September 1 that falls three years from the final rule's publication date. *See Federal Register*, March 30, 2012.

Congressional Committee Examines FDA's Role in Cosmetics Safety

The House Energy and Commerce Subcommittee on Health conducted a **hearing** on March 27, 2012, to examine "the current state of cosmetics" and the Food and Drug Administration's (FDA's) oversight role. Although some states have enacted their own cosmetic-safety laws, congressional lawmakers are considering a national safety standard following recent concerns over the use of formaldehyde in a hair-straightener and lead in certain lipsticks.

FDA regulates the cosmetic industry, but does not require manufacturers to submit safety substantiation data or obtain pre-market approval for ingredients, nor does it have the authority to enforce a recall. Michael Landa, director of FDA's Center for Food Safety and Applied Nutrition, said in a prepared **statement** that FDA prohibits, for safety reasons, the use in cosmetics of 10 types of ingredients, such as chloroform, methylene chloride and mercury-containing compounds. The agency can pursue enforcement actions against "violative products" or firms or individuals who violate the law, Landa said.

He noted, however, that "except for color additives and those ingredients which are prohibited or restricted from use in cosmetics by regulation, a manufacturer may use any ingredient in a cosmetic, provided that the ingredient does not adulterate the finished cosmetic and the finished cosmetic is properly labeled." As Landa told a news source, "The law in effect places on companies the burden to market products that are safe, and to not market products that are not safe."

In a related matter, Landa also said at the hearing that "cosmeceuticals," an industry word for a product category "that straddles the line between cosmetics and drugs," with ingredients such as retinol and peptides, present their own set of regulatory challenges. These include "how such products should be regulated and with what requirements such products should comply," Landa said. "The use of such ingredients is increasing, and we expect this trend to continue, posing additional regulatory challenges." *See Law360,* March 27, 2012.

CPSC Approves Lead Exemption for Certain Parts of Ride-On Toys

The Consumer Product Safety Commission (CPSC) has reportedly agreed with a staff **recommendation** and approved an exemption for certain aluminum alloy components used with die-cast, ride-on pedal tractor toys from the agency's 100 parts per million (ppm) lead limit. Although ride-on toy makers Joseph L. Ertle Inc., Scale Models and Dyersville Die Cast Divisions sought the exemption for their products alone, CPSC approved it for application to similar ride-on products like cars and other toys, finding it unlikely that children would be harmed by ingesting lead from such products. Industry stakeholders were reportedly closely monitoring the petition, believing that if the exemption were granted, CPSC may approve other similar requests. *See Bloomberg BNA Product Safety & Liability Reporter*, March 27 and April 3, 2012.

CHAP to Hold Teleconference April 10 on Phthalates

The Consumer Product Safety Commission (CPSC) has **announced** an April 10, 2012, teleconference and seventh meeting of the Chronic Hazard Advisory Panel (CHAP) on phthalates and phthalate substitutes, which are used to make plastics more flexible in children's toys and child care articles. Appointed by CPSC in April 2010 to study the effects of the industrial chemicals on children's health, CHAP will provide updates on its progress in analyzing their potential risks. No opportunity will be available for public comment during this meeting.

Currently, the Consumer Product Safety and Improvement Act permanently bans the sale of toys and child care products that contain more than 0.1 percent of three specified phthalates: dibutyl phthalate (DBP), di-(2-ethylhexyl) phthalate (DEHP) and benzyl phthalate (BBP). On an interim basis, the law also bans the sale of any "children's toy that can be placed in a child's mouth" or "child care article" containing more than 0.1 percent of three additional phthalates: diisononyl phthalate (DINP), diisodecyl phthalate (DIDP) and di-n-octyl phthalate (DNOP). Based on CHAP's report, CPSC will determine whether to promulgate rules that continue the temporary ban and if other phthalates or phthalate substitutes should also be banned.

CHAP is also exploring likely exposure levels, cumulative effects, all relevant data, health effects from ingestion and as a result of dermal, hand-to-mouth or other exposure, and no harmful exposure levels for "children, pregnant women, or other susceptible individuals and their offspring, considering the best available science, and using sufficient safety factors to account for uncertainties regarding exposure and susceptibility of children, pregnant women, and other potentially susceptible individuals." *See Federal Register*, March 29, 2012.

GAO Finds FDA Meets Performance Goals but Medical Device Reviews Are Taking Longer

The Government Accountability Office (GAO) has issued a **report** titled "FDA Has Met Most Performance Goals but Device Reviews Are Taking Longer." According to the report, the Food and Drug Administration (FDA) generally conducts its reviews of medical devices under the 510(k) process, relating to devices substantially equivalent to those already legally on the market, in a timely manner, but was inconsistent in meeting performance goals set for the more stringent premarket approval (PMA) process.

GAO also found that between fiscal years (FYs) 2005 and 2010 "the average time to final decision for 510(k)s increased 61 percent from 100 days to 161 days." The average time to final decision for PMAs apparently increased from 462 days in FY 2003 to 627 days in FY 2008. According to GAO, new FDA guidance, enhanced reviewer training and an electronic system for reporting adverse events may address many of the issues identified by stakeholders as issues hindering the timely approval of safe and effective medical devices.

In a related development, FDA has **released** guidance titled "Factors to Consider When Making Benefit-Risk Determinations in Medical Device Premarket Approval and De Novo Classifications." Intended to "provide greater clarity on FDA's decision-making process," the agency hopes "to improve the predictability, consistency, and transparency of the review process for applicable devices." Comments on the document, which has already been through a public comment process, are requested at any time. *See Federal Register*, March 28, 2012.

Illinois Courts to Stop Reserving Asbestos Trial Dates for Cases Not Yet Filed

According to a news source, Madison County, Illinois, Associate Judge Clarence Harrison has decided that trial dates will no longer be reserved for asbestos cases that have not yet been filed. Critics of the reservation system claimed that 65 percent of the asbestos cases scheduled for trial in 2012 were filed after the trial date was set, a practice that purportedly allowed plaintiffs' firms to market the dates to asbestos plaintiffs nationwide. The county is apparently home to 25 percent of the asbestos cases filed in the United States and has more than 500 trial dates set for this year. While elderly and dying plaintiffs will receive preference under Harrison's new system, trials beginning in 2013 will now be scheduled on a case-by-case basis. *See Courthouse News Service*, March 30, 2012.

LEGAL LITERATURE REVIEW

Laurie Novion & Ina Chang, "The Evolving Burden for Removal under CAFA," ABA Section of Litigation *Mass Torts*, March 2012

Authored by Shook, Hardy & Bacon Class Actions & Complex Litigation Partner **Laurie Novion** and Associate **Ina Chang**, this article explores how the federal circuit and district courts have interpreted the amount-in-controversy provision of the Class Action Fairness Act (CAFA). Because the law "is silent on whether the act alters the traditional rule that the burden of proving federal jurisdiction rests on the removing party," the courts have grappled with questions such as (i) which party has the burden for removal, (ii) what is the level of burden for removal, and (iii) what evidence can be used to support it. According to the authors, the law and standards addressing the issue have evolved since CAFA was enacted and vary to some extent by circuit.

Alison Newstead, "The aftermath of a product recall: when the dust settles," *The In-House Lawyer*, April 2012

In this article, Shook, Hardy & Bacon Global Product Liability Partner **Alison Newstead** identifies the issues that could affect liability in the wake of a product recall, including the requirement to disclose documents created before and during the recall in follow-on litigation and potential FOIA information requests to the governmental authorities involved. Newstead cautions in-house counsel to review recall systems to learn what worked and identify areas for improvement, "[o]nce the immediate investigations, recall logistics and notifications have been made and the recall is underway."

Joe Cecil, "Of Waves and Water: A Response to Comments on the FJC Study Motions to Dismiss for Failure to State a Claim after *Iqbal*, *Federal Judicial Center*, March 2012

Authored by one of the Federal Judicial Center researchers examining court dockets to discern the impact of the U.S. Supreme Court's adoption of the plausibility

pleading standard in *Bell Atlantic v. Twombly* and *Ashcroft v. Iqbal*, this paper addresses the critiques leveled against their conclusions by several law professors. Joe Cecil continues to maintain that while the rate at which defendants have filed motions to dismiss has significantly increased, no statistically significant increase in the rate of grants of motions to dismiss without leave to amend has occurred. He further proposes "a study of all dispositive motions that will, among other things, examine the interaction between motions to dismiss for failure to state a claim and motions for summary judgment." This type of study, he contends, "may provide an estimate of the more evolved responses of plaintiffs, defendants, and judges to *Twombly* and *Iqbal*, and to the appellate courts' interpretations of these decisions."

Sheila Scheuerman, "Against Liability for Private Risk-Exposure," *Harvard Journal of Law and Public Policy* (forthcoming 2012)

Charleston School of Law Professor Sheila Scheuerman addresses the growing trend of plaintiffs to file lawsuits based on the risk of future harm and reports that the courts are "intractably divided" over whether "no injury" or "unmanifested defect" claims are cognizable. She argues that risk alone is not a setback to an interest and thus should not be compensable through litigation against a product manufacturer. Scheuerman concludes, "the solution to encouraging risk reduction by manufacturers, without exposing companies to bankrupting liability, lies with government regulation. As one court noted, '[t]he only persons that would benefit by permitting cases such as this to go forward would be the lawyers handling the case and perhaps the few consumers directly involved in the litigation.' … In short, should consumers be allowed to sue for the alleged diminished value of a product that *might* malfunction? The answer is no."

LAW BLOG ROUNDUP

Please, Congress, Regulate Us

"It's not often that industry representatives go before Congress to ask for more federal regulations, but that's what cosmetics makers want from the Food and Drug Administration."

Senior *Legal Times* Reporter Jenna Greene, blogging about a House subcommittee hearing during which cosmetics manufacturers and companies that make personal care products asked Congress to provide the agency with added authority to regulate their products to avoid state-by-state regulation that would "substantially increase the cost of producing and distributing" their products.

The BLT: The Blog of LegalTimes, March 27, 2012.

Lawyers as Vigilantes?

"Many of the abuses in the class action system come when courts forget that class actions involve *clients* rather than attorneys acting as free-roaming consumer-protection vigilantes." Center for Class Action Fairness President Ted Frank, discussing a recent Third Circuit ruling that rejected a putative class action against a magazine subscription service, because the class representatives lacked standing. They had sought future injunctive relief for past harm allegedly the result of consumer fraud, and such relief would arguably afford them no benefit: "they had no risk of future injury, as they were already aware of the alleged 'fraudulent' practices."

PointofLaw.com, April 2, 2012.

Tort Reform on the Hill

"The Senate is unlikely to consider the bill, and President Obama has threatened to veto it, if passed." Charleston School of Law Associate Professor Sheila Scheuerman, reporting that the House passed a nationwide tort reform measure as part of a bill to repeal some of the health care reforms enacted in 2010. The bill would cap noneconomic damages in medical lawsuits, allow courts to reduce contingency fees and alter state joint-and-several liability laws.

TortsProf Blog, March 26, 2012.

THE FINAL WORD

Federal Judges Routinely Remind Jurors Not to Post Case-Related Information on Social Media

A recently released **report** based on a survey of federal judges conducted by the Federal Judicial Center indicates that most have taken steps to ensure that jurors do not use social media to discuss the cases they are hearing. While some of the judges described situations in which jurors detected use of social media during trials and deliberations, the occurrence is considered rare. Nine of the 30 judges who reported such activity indicated that they removed offending jurors from the panel, eight cautioned "the wayward juror," four declared mistrials, one held a juror in contempt of court, and one reported imposing a fine on a juror. A majority of the responding judges are apparently using model jury instructions to address the issue, but more than 100 judges confiscate jurors' telephones and electronic devices as each day of trial begins, and nearly 150 judges do so during jury deliberations. *See The Third Branch*, March 2012.

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UPCOMING CONFERENCES AND SEMINARS

ABA Section of Litigation, Washington, D.C. – April 18-20, 2012 – "Annual CLE Conference. Shook, Hardy & Bacon Tort Partner **John Barkett** is serving as chair of this year's American Bar Association (ABA) event, scheduled for April 18-20, 2012, in Washington, D.C. With 200 distinguished speakers participating in 45 CLE programs and seven networking sessions, this conference promises to be a "premier event for litigators." Shook, Hardy & Bacon is a conference co-sponsor.

ABA, Beijing, China – April 19, 2012 – "Doing Business in the United States: What You Need to Know About Investing, Product Liability and Dispute Resolution." As a Premiere Sponsor for this program, presented in conjunction with the China Council for the Promotion of International Trade and the American Chamber of Commerce, Beijing, Shook, Hardy & Bacon will also moderate and present during the event. Employment Litigation Partner **William Martucci** will serve on a panel discussing "Operations in the United States and Compliance with United States Employment and Labor Laws." Global Product Liability Partner **H. Grant Law** will serve as the moderator of a program session focusing on "Minimizing Exposure for Product Liability." Pharmaceutical & Medical Device Litigation Chair **Madeleine McDonough** will introduce U.S. agency officials with the Consumer Product Safety Commission (CPSC) and Food and Drug Administration (FDA) and provide an overview of "The United States Regulatory Landscape: Focusing on the CPSC and the FDA."

FDLI, Washington, D.C. – April 24-25, 2012 – "55th Annual Conference." Shook, Hardy & Bacon Pharmaceutical & Medical Device Litigation Partner **Michelle Mangrum** will be serving as a breakout session moderator. This session, the "FDA Center Directors Roundtable," features representatives from each of the Food and Drug Administration's (FDA's) six product centers discussing "the three most important developments from the last year and their three most important goals in 2012." Mangrum's panel will focus on Center for Drug Evaluation and Research (CDER) issues and include CDER Director Janet Woodcock and a Novartis Pharmaceuticals Corp. representative. 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).