Shook, Hardy & Bacon L.L.P.

Product Liability Litigation Report

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MEDICAL DEVICE MDL DISMISSED ON FEDERAL PREEMPTION GROUNDS

A federal court in Minnesota has dismissed multidistrict litigation claims that alleged injury from defects in defibrillator leads, which had undergone Food and Drug Administration (FDA) pre-market approval. *In re: Medtronic, Inc. Sprint Fidelis Leads Prods. Liab. Litig.*, MDL No. 08-1905 (U.S. Dist. Ct., D. Minn., decided January 5, 2009). Relying on the U.S. Supreme Court's decision in *Riegel v. Medtronic, Inc.*, 128 S. Ct. 999 (2008), the court ruled that federal preemption leaves the plaintiffs without judicial recourse to pursue claims for damages and thus, that their only remedy "lies with Congress."

According to the court, the plaintiffs' claims were "predicated on a defect in the method of manufacture approved by the FDA when it granted the leads [pre-market approval]." Despite allegations that the medical device defendant delayed filing "adverse event reports" about the leads with the FDA and that the FDA issued a "Class I" recall, "the most serious type of medical device recall," which occurs only when "there is a reasonable probability that the use of the produc[t] will cause serious injury or death," the court determined that it "simply" could not provide a remedy.

REMOVAL AUTHORITY, DIVERSITY AND AMOUNT IN CONTROVERSY AT ISSUE IN RECENT CAFA DECISIONS

The Fourth Circuit Court of Appeals has determined that a party, added as a defendant to a counterclaim filed in a putative class action lawsuit, cannot remove the matter from state court to federal court because the "additional counter-defendant" is not a "defendant" under the Class Action Fairness Act of 2005 (CAFA). ***Palisades Collections LLC v. Shorts*, No. 08-2188 (4th Cir., decided December 16, 2008)**. The issue arose in litigation involving a fee collection claim for early termination of wireless telephone services and a counterclaim challenging such contract fees. The plaintiff to the original collection action added AT&T Mobility LLC (ATTM) as an additional counterclaim defendant, and ATTM sought to remove the action to federal court. According to the court, only original defendants have had the authority to remove a civil action over which

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the federal district courts have original jurisdiction; when Congress decided to allow "any defendant" to remove a putative class action to federal court under CAFA, it did not change this traditional removal practice.

The Fourth Circuit has also ruled that, for purposes of establishing diversity under CAFA, a corporate litigant is a citizen of both its state of incorporation and the location of its principal place of business. ***Johnson v. Advance Am.*, No. 08-2186 (4th Cir., decided December 12, 2008)**. The plaintiffs brought claims of unconscionable loans against a payday loan company and sought to represent three subclasses of South Carolina claimants. The loan company removed the case to federal court, contending that because it is incorporated under the laws of Delaware, it is a Delaware citizen and its citizenship differs from the citizenship of class members. While its principal place of business was located in South Carolina, the company argued that its dual citizenship was sufficient to establish minimal diversity under CAFA. The court disagreed, stating "Because Advance America has South Carolina citizenship, it cannot carry its burden of demonstrating that the citizenship of the South Carolina class members is different from its own."

The Sixth Circuit Court of Appeals has rejected an effort by plaintiffs to split their claims into five identical lawsuits and thereby restrict their damages to amounts below the CAFA threshold in an effort to avoid removal to federal court. ***Freeman v. Blue Ridge Paper Prods., Inc.*, No. 08-6321 (6th Cir., decided December 29, 2008)**. The case involved claims for nuisance related to alleged paper mill pollution. The plaintiffs divided their suit into five separate actions with identical parties and claims, except that each was for "a series of different, sequential six-month periods" and each "limited the total class damages to less than $4.9 million." The district court remanded the case to state court after the defendant removed it, because the claims were less than CAFA's $5 million threshold.

Stating that "CAFA was clearly designed to prevent plaintiffs from artificially structuring their suits to avoid federal jurisdiction," the Sixth Circuit reversed, but limited its holding to "the situation where there is no colorable basis for dividing up the sought-for-retrospective relief into separate time periods, other than to frustrate CAFA." Apparently, counsel for plaintiffs admitted during oral argument that the claims had been structured this way specifically to avoid CAFA.

CLASS CERTIFICATION ISSUES ADDRESSED IN TRIO OF OPINIONS FROM FEDERAL COURTS

The Third Circuit Court of Appeals has reversed and remanded a district court order certifying a class in antitrust litigation filed against chemical manufacturers and, in so doing, clarified three principal aspects of class certification procedure. ***In re: Hydrogen Peroxide Antitrust Litig.*, No. 07-1689 (3d Cir., decided December 30, 2008)**.

The underlying claims involved alleged price-fixing in the hydrogen peroxide market. The plaintiffs relied on the testimony of their expert economist to support class certification; he planned to use one of two potential approaches to estimate class-wide damages, but had not already done so. Defendants offered the testimony of their own expert economist who disputed the findings

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and methodologies of plaintiffs' expert and presented empirical data to show that individual issues would predominate at trial. The trial court simply accepted plaintiffs' assertions about the hydrogen peroxide market and accepted their expert's opinion without addressing the factual and legal disputes raised during the certification proceedings to find the Rule 23 requirements satisfied.

At the outset, the Third Circuit emphasized the differences between various grades of the chemical in the marketplace and their differing uses, observing that not all manufacturers produced all chemical grades. Noting that "little guidance is available on the subject of the proper standard of 'proof' for class certification," the Third Circuit stated, (i) "the decision to certify a class calls for findings by the court, not merely a 'threshold showing' by a party, that each requirement of Rule 23 is met. Factual determinations supporting Rule 23 findings must be made by a preponderance of the evidence"; (ii) "the court must resolve all factual or legal disputes relevant to class certification, even if they overlap with the merits—including disputes touching on elements of the cause of action"; and (iii) "the court's obligation to consider all relevant evidence and arguments extends to expert testimony, whether offered by a party seeking class certification or by a party opposing it."

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According to the appeals court, "because each requirement of Rule 23 must be met, a district court errs as a matter of law when it fails to resolve a genuine legal or factual dispute relevant to determining the requirement." On remand, the district court will have to decide which of the experts was persuasive with respect to the certification requirements. This does not, in the Third Circuit's view, "preclude a different view at the merits stage of the case."

A federal court in Louisiana has denied certification of class claims in multidistrict litigation alleging that plaintiffs were injured by exposure to formaldehyde in the trailers that the government provided to residents left homeless by hurricanes Katrina and Rita. *In re: FEMA Trailer Formaldehyde Prods. Liab. Litig.*, MDL No. 07-1873 (U.S. Dist. Ct., E.D. La., decided December 29, 2008). Six subclasses of claimants had been proposed, divided among different states and raising different types of injuries. The court analyzed each class certification requirement and found that they had not been met. Of most significance to the court were the many different trailer models at issue, produced by dozens of different manufacturers, the varying symptoms and injuries alleged by individuals of all ages with varying medical histories, and a number of factors, such as temperature, humidity, ventilation, and time of exposure, that could affect levels of exposure. Too many individual issues thwarted the commonality, typicality and predominance requirements of Rule 23, according to the court.

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A federal court in California has reportedly certified a nationwide class of plaintiffs who claimed that an automaker misled consumers about the performance of its braking system, marketed as having the ability to predict rear-end collisions and control brake operations to reduce vehicle damage and injury. *Mazza v. Am. Honda Motor Co., Inc.*, No. 07-07857 (U.S. Dist. Ct., C.D. Cal., decided December 16, 2008). The class apparently includes those who bought 1,950 Acura RL® vehicles with a Collision Mitigation Braking System between 2005 and 2008. Damages have been estimated at about $4,000 for each class member. *See Product Liability Law 360*, December 18, 2008.

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FEDERAL COURT ORDERS AUTOMAKER TO UNSEAL POTENTIALLY DAMAGING TRANSCRIPTS

A federal court in New Jersey has upheld a magistrate's order that General Motors Corp. unseal unredacted copies of transcripts that apparently reveal the company's litigation strategy to conceal the testing of an alternative car design in a design defect case. *Newman v. General Motors Corp.*, No. 02-135 (U.S. Dist. Ct., D.N.J., order entered December 31, 2008). A motorist, who sued the company after he sustained a serious injury in a car accident involving his 1986 Chevrolet Camaro, won a $14 million jury verdict. During the appeal which upheld the award, the motorist's lawyer learned about documents in a similar case in Tennessee allegedly proving that the company fraudulently concealed from the motorist the testing, analysis and ultimate rejection of an alternative Camaro model.

The motorist's executor then filed a lawsuit against General Motors, alleging negligent concealment of evidence and violations of New Jersey's Racketeering Influenced and Corrupt Organizations Act. The executor asked General Motors to produce hundreds of documents involving attorney-client communications related to the motorist's earlier case, and the company reportedly challenged the discovery request in ex parte hearings, claiming privilege. The court ruled that the crime-fraud exception pierced the privilege, a ruling that the company unsuccessfully appealed to the Third Circuit Court of Appeals.

Thereafter, the court ordered the transcripts of the ex parte hearings unsealed, and the company challenged that ruling, claiming the transcripts revealed its legal strategy and could harm its reputation. The court found that the material at issue during the ex parte hearing had lost its protected status because the company had already divulged the purportedly sensitive material to the court. The court also rejected the company's claim that the transcripts were work product and determined that the public interest in evidence and arguments made to the court related to the alleged fraud in the motorist's lawsuit tipped the balance in favor of disclosure. *See Product Liability Law 360*, January 6, 2009.

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ATRA RELEASES MOST RECENT REPORT ON U.S. JURISDICTIONS UNFAVORABLE TO DEFENDANTS

The American Tort Reform Association (ATRA) has issued its latest report, ***Judicial Hellholes 2008/2009***, which identifies those jurisdictions that are particularly unfriendly to corporate interests in the courtroom. According to the report, "Judicial Hellholes are places where judges systematically apply laws and court procedures in an inequitable manner, generally against defendants in civil lawsuits."

Among the jurisdictions cited for their "anti-business rulings" in this report were West Virginia; South Florida; Cook County, Illinois; Atlantic County, New Jersey; Montgomery and Macon Counties, Alabama; Los Angeles County, California; and Clark County, Nevada. The report suggests that reforms such as "stopping 'litigation tourism,' enforcing consequences for bringing frivolous lawsuits, stemming abuse of consumer laws, ensuring that pain and suffering

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awards serve a compensatory purposes, strengthening rules to promote sound science, protecting access to health care by addressing medical liability issues, and prioritizing the asbestos and silica claims of those who are actually sick," can help restore balance to Judicial Hellholes.

The report also focuses on "points of light," or those jurisdictions in which judges, legislators, the electorate, and the media took steps to "reduce lawsuit abuse." According to the report, "[t]hese are examples of how a courthouse, city, county or state can emerge from the desultory depths of a Hellhole or otherwise avoid sinking to those depths in the first place." Among the jurisdictions noted in this section are Maryland, Pennsylvania, Rhode Island, and Texas.

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THINKING GLOBALLY

U.S. Courts Must Consider Whether ATCA Claimants Have Exhausted Legal Options Abroad

The Ninth Circuit Court of Appeals has determined, in a plurality decision, that U.S. courts, when deciding whether they have jurisdiction to decide disputes under the Alien Tort Claims Act (ATCA), must consider, in "appropriate" cases, whether foreign claimants who sue foreign companies in U.S. courts have exhausted their legal remedies in their home countries. ***Sarei v. Rio Tinto*, PLC, No. 02-56256 (9th Cir., decided December 16, 2008)**. In this case, the plaintiffs are current and former residents of Papua New Guinea; they alleged war crimes, crimes against humanity, racial discrimination, and environmental torts arising out of the foreign defendant's mining operations in their country and a resulting civil war. The district court dismissed the complaint "as presenting nonjusticiable political questions."

Three appeals court judges recognized that ATCA does not require an alien plaintiff to exhaust local remedies before invoking the jurisdiction of U.S. courts, but thought this was an appropriate case, that is, one without a significant nexus to the United States and not necessarily raising matters of "universal concern," requiring application of this prudential principle. They focused on the plaintiffs' nationality and the foreign corporation's alleged complicity in acts on foreign soil to find that principles of comity might require U.S. courts to refrain from acting before local courts have had an opportunity to do so.

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The court remanded the case for the district court to decide "in the first instance whether to impose an exhaustion requirement on plaintiffs." The framework that the lower court must apply will require the defendant to bear the burden of pleading and justifying an exhaustion requirement, including the availability of local remedies that are effective and not futile. The plaintiffs may rebut the showing by demonstrating the futility of exhaustion, but if exhaustion is required, the plaintiff must "obtain a final decision of the highest court in the hierarchy of courts in the legal system at issue."

Two Ninth Circuit judges concurred but opined that ATCA itself imposes an exhaustion requirement because it incorporates "the whole of the law of nations: the rights it grants *and* the limitations it places on those rights." Two judges

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would have affirmed the lower court's dismissal because, in their view, ATCA cannot be applied to a dispute "not involving United States territory or citizens."

Four judges dissented, finding no exhaustion requirement under the statute, no requirement that the doctrine be applied as a matter of judicial prudential considerations and no reason to apply the doctrine in this case because the plaintiffs had shown that they or their families would be in danger if they had to file their claims in Papua New Guinea. According to these dissenters, "No rule of domestic or international law requires plaintiffs who are alleging serious violations of human rights to exhaust local remedies when there is evidence that plaintiffs would further risk their lives by doing so."

ALL THINGS LEGISLATIVE AND REGULATORY

Obama Selects Legal Scholar for Key Regulatory Post; FDA Appoints Drug Safety Activist to Advisory Committee

President-elect Barack Obama has reportedly tapped Harvard Law School Professor Cass Sunstein to lead the White House Office of Information and Regulatory Affairs, which oversees regulatory agencies in all areas of government. A pioneer in the field of law and behavioral economics, Sunstein's legal and academic work has advocated tailoring regulations to suit the way people actually behave. He has also assisted countries such as Ukraine, Poland and South Africa design legal and regulatory systems during their transitions to democracy. Sunstein recently co-authored a book titled *Nudge: Improving Decisions about Health, Wealth and Happiness* that considers how "choice architects" can promote beneficial decision-making in a free marketplace.

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Commentators have apparently noted that Obama's choice for regulatory czar shows a break with the Bush administration's emphasis on deregulation. "Sunstein's appointment will bring upper-level public servants to the edge of their desk chairs, and will leave many of them quite uncomfortable," University of Arkansas Law Professor Rob Leflar was quoted as saying. *See The Wall Street Journal,* January 7, 2009; *Product Liability Law 360,* January 8, 2009.

In a related development, the Food and Drug Administration (FDA) has also apparently chosen drug industry critic Sidney Wolfe to serve a four-year term on its Drug Safety and Risk Management Advisory Committee. As head of Public Citizen's Health Research Group, Wolfe has helped push 16 drugs off the market, raising patient-advocate fears that his tenure on the committee will result in additional FDA bureaucracy, higher drug trial costs and unnecessary red-tape on potentially life-saving therapies. His appointment purportedly reflects the shift in Washington toward stricter regulation of pharmaceutical products, consumer goods and the food supply. "The history of the last 20 years is one of crises with drugs and medical devices, many approved despite the objections of the FDA's own scientists," opined Wolfe, who also wants to limit popular drug "copycats" and direct-to-consumer marketing. *See The Wall Street Journal,* January 9, 2009.

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Recent Developments in the Regulation of Lead in Children's Products

The Consumer Product Safety Commission (CPSC) has issued a **statement** to clarify how new rules on phthalates and lead in children's products will be applied beginning February 10, 2009. According to the CPSC, under the Consumer Product Safety Improvement Act, "children's products with more than 600 ppm total lead cannot lawfully be sold in the United States on or after" that date, "even if they were manufactured before that date. The total lead limit drops to 300 ppm on August 14, 2009."

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Domestic manufacturers and importers must certify that children's products made after February 10 meet all safety standards and the lead ban. "Certain children's products manufactured on or after February 10, 2009, cannot be sold if they contain more than 0.1% of certain specific phthalates or if they fail to meet new mandatory standards for toys."

Those selling used children's products, "such as thrift stores and consignment stores," are not required to comply with the certification requirements nor must they test children's products. Resellers, however, "cannot sell children's products that exceed the lead limit and therefore should avoid products that are likely to have lead content, unless they have testing or other information to indicate the products being sold have less than the new limit." CPSC also reminds resellers that it is illegal now to sell recalled products.

In December 2008, the CPSC issued a **final rule**, effective August 14, 2009, amending its regulations to reduce the permissible lead level in paints and coatings on toys and other articles used by children and on certain furniture articles. The agency also issued a **notice** of requirements for accrediting third-party laboratories that assess conformity with the 600 and 300 ppm lead limits in children's metal jewelry under the Consumer Product Safety Improvement Act. Comments on the notice, which were effective December 22, must be submitted by January 21, 2009.

According to a news source, CPSC has given preliminary approval to a new rule that would exempt those who sell clothes or other products for children from the lead testing requirements. The new law requires that all products sold in the United States for children younger than 12 be tested for lead. Many retailers have apparently told the agency that the law will force them to spend thousands of dollars to test products like clothing that rarely, if ever, contain lead. CPSC reportedly plans to publish a proposed rule that would exempt products containing lead parts that children cannot access, fabrics in clothing, toys and other goods made of unadulterated and unprocessed natural materials such as cotton and wood, and electronics that cannot be made without lead and are inaccessible to children. Public comments will be due 30 days after publication in the *Federal Register.*

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NRC Report Faults Federal Strategy for Nanotechnology-Related Research

The National Research Council (NRC) has published a report, titled *Review of Federal Strategy for Nanotechnology-Related Environmental, Health, and Safety Research*, that finds "serious weaknesses in the government's

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plan for research on the potential health and environmental risks posed by nanomaterials, which are increasingly being used in consumer goods and industry." NRC describes the research plan developed under the auspices of the National Nanotechnology Initiative (NNI) as "incomplete," noting that it does not "include research goals to help ensure that nanotechnologies are developed and used as safely as possible."

According to a recent NRC press release, the NNI plan takes only a cursory look at important research areas like "Nanomaterials and Human Health," which should "include a more comprehensive evaluation of how nanomaterials are absorbed and metabolized by the body and how toxic they are at realistic exposure levels." NRC also faults the NNI for failing to incorporate vital input from "industries that produce and use nanotechnologies, environmental and consumer advocacy groups, and other stakeholders." "The plan should identify research needs clearly and estimate the resources necessary to address gaps, as well as provide specific, measurable objectives and a timeline for meeting them," NRC concludes. "The current structure of NNI would make developing a visionary and authoritative strategy difficult." *See NRC Press Release,* December 10, 2008; *Law 360,* December 11, 2008.

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NIST Seeks White Papers to Identify Research Needs for Competitive Funding Program

The National Institute of Standards and Technology (NIST) has issued a **notice** calling for white papers from academia, government, industry, national laboratories, and professional organizations "to identify and select areas of critical national need to be addressed in future TIP competitions." TIP, the Technology Innovation Program, identifies high-risk, high-reward research and holds competitions to fund it with the goal of accelerating innovation in the United States. "TIP is interested in receiving input on the identification and definition of problems that are sufficiently large in magnitude that they have the potential to inhibit the growth and well-being of our nation today." Nanotechnology is specifically identified as a possible topic.

According to NIST, "The unique properties of nanomaterials provide extraordinary promise. There is a need for greater understanding and solutions to overcome the barriers associated with manufacturing nanomaterials and their incorporation into products, while maintaining the unique functionality of the nanomaterial. Although many processes are achievable in the laboratory, the scale-up to industrial production without compromising the quality of the produced material can be highly problematic."

Papers must be submitted by January 15, March 9, May 11, and July 13, 2009.

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LEGAL LITERATURE REVIEW

Symeon Symeonides, "Choice of Law in the American Courts in 2008: Twenty-Second Annual Survey," *American Journal of Comparative Law* (2009)

Willamette University College of Law Dean and Professor Symeon Symeonides has authored his annual survey of the rules state and federal courts apply when deciding the law that should be applied to legal disputes involving litigants from different jurisdictions. Products liability litigation is one focus of the 2008 survey, and the article discusses cases in which Maine, Michigan, New Jersey, Rhode Island, and Texas courts applied the doctrine of forum non conveniens to decide whether to hear disputes involving foreign plaintiffs. The article also summarizes products liability cases involving inverse conflicts and direct conflicts.

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Scott Kaiser & Aaron Kirkland, "Federal Courts Retain Jurisdiction over Individual Claims After Removal of Mass Action," (ABA Section of Litigation) *Mass Torts*, Fall/Winter 2009

Shook, Hardy & Bacon Product Liability Practice associates **Scott Kaiser** and **Aaron Kirkland** have co-authored an article about a federal court decision under the Class Action Fairness Act (CAFA) that addresses whether federal courts retain jurisdiction over mass actions removed to federal court that are subsequently severed into individual trials. Under CAFA, mass actions are defined as those "in which the monetary relief claims of 100 or more persons are proposed to be tried jointly on the ground that the plaintiffs' claims involve common questions of law or fact." The plaintiffs had filed such actions in state court, claiming that their addiction to cigarettes caused their illnesses. After removal to federal court under CAFA, plaintiffs argued that the court must consider post-removal events that affect the propriety of continued jurisdiction. The court rejected that interpretation of the law, a ruling that the authors suggest "should prevent plaintiffs from joining their cases to parties of 100 or more simply to save on filing fees and expedite the filing of numerous claims in state court."

LAW BLOG ROUNDUP

Questions Raised About Obama's Pick for Regulatory Czar

"Prof. Sunstein is a huge fan of cost-benefit analysis." Celeste Monforton, with the Project on Scientific Knowledge and Public Policy at the George Washington University School of Public Health, expressing her concerns that President-elect Obama's pick to head OMB's Office of Information and Regulatory Affairs supports strict cost-benefit analyses for health and safety regulations.

The Pump Handle, January 9, 2009.

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And Yet More on Harvard Law Professor Cass Sunstein

"This is OK as far as it goes, but it could easily jump off the tracks and get silly. … when the fight over Sunstein gets going, it's likely to include non-issues like the conduct of cost-benefit analysis (CBA) in rulemaking at all. The conduct of CBA isn't worth fighting over. It isn't going to be abolished." Dickinson School of Law Professor Jamison Colburn, responding to concerns on the left about the Sunstein nomination.

Dorf on Law, January 11, 2009.

THE FINAL WORD

Margaret Cronin Fisk, "Billion-Dollar U.S. Verdicts Vanish After Appeals, New Rulings," *Bloomberg News*, January 8, 2009

Bloomberg reporter Margaret Cronin Fisk writes in this article that "[f]or the second time in the past three years, juries in 2008 issued no awards above [a billion dollars]." According to data compiled by *Bloomberg News*, "The top 10 punitive awards against companies in 2008 totaled $960 million, down 30 percent from 2007 and 63 percent from 2006. The last U.S. verdict of just punitive damages of $1 billion or more against a company occurred in February 2004." Cronin Fisk suggests that the decrease can be attributed to court rulings that overturn punitive damages awards that far exceed actual damages. As a consequence, plaintiff's lawyers are apparently cautioning jurors not to award "too much" when they request punitive damages. At least one plaintiff's lawyer believes that new laws limiting damages and the campaign of business interests to fund conservatives for positions on state courts have also been effective at curbing or eliminating punitive damages against corporations. Shook, Hardy & Bacon Public Policy Partner **Victor Schwartz** is quoted as saying that, in light of the recent U.S. Supreme Court ruling on damages awarded in the Exxon Valdez oil-spill case, "judges are more cautious" in upholding high punitive damages awards.

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UPCOMING CONFERENCES AND SEMINARS

Grocery Manufacturers Association, Rancho Mirage, California – February 24-26, 2009 – "2009 Food Claims & Litigation Conference." The conference will address emerging issues in food-related litigation, including (i) recent developments in product liability cases; (ii) pre-litigation risk management for consumer products; and (iii) non-traditional discovery methods. Shook, Hardy & Bacon Pharmaceutical and Medical Device Litigation Partners **Frank Rothrock** and **Paul La Scala** will address "Country-of-Origin-Labeling: A Legal Mandate for Some, a Marketing Opportunity for Others, and a Litigation Risk for All"; Shook, Hardy & Bacon Pharmaceutical and Medical Device Partner **Madeleine McDonough** and Product Liability Partner **Amy Crouch** will present on "Pre-Litigation Risk Management for Consumer Products Companies."

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American Bar Association, Phoenix, Arizona – April 2-3, 2009 – "2009 Emerging Issues in Motor Vehicle Product Liability Litigation." Shook, Hardy & Bacon Tort Partner **Frank Kelly** joins a distinguished faculty to serve on a panel discussing "The Science Behind the Sentiment: Understanding Punitive Damages in an Era of Anti-Corporate Bias." CLE credit is available for this program, which is presented by the ABA's Tort Trial & Insurance Practice Section; Products, General Liability and Consumer Law Committee and Automobile Law Committee.

ABOUT SHB

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

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

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

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

Shook, Hardy & Bacon L.L.P.

OFFICE LOCATIONS

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

San Francisco, California
+1-415-544-1900

Tampa, Florida
+1-813-202-7100

Washington, D.C.
+1-202-783-8400

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