Shook, Hardy & Bacon L.L.P.

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PRODUCT LIABILITY LITIGATION REPORT

CONTENTS

FIFTH CIRCUIT APPLIES CHOICE-OF-LAW RULES IN HELICOPTER CRASH SUIT AND DISMISSES ACTION

The Fifth Circuit Court of Appeals has applied Louisiana law under Florida choice-of-law rules requiring application of the most-significant-relations test and effectively barred a decedent's mother from bringing a wrongful death action on behalf of his estate against defendants allegedly involved in the 2009 helicopter crash in which the decedent was killed. ***Yelton v. PHI, Inc.*, No. 11-30153 (5th Cir., decided February 2, 2012)**.

Louisiana law was chosen because the decedent, a Florida resident, boarded the flight in Louisiana to travel to his job site at an oil rig off the Louisiana coast. The helicopter struck a bird some seven minutes into the flight and crashed outside Morgan City, Louisiana. One of the defendants was headquartered in Louisiana, the helicopter was maintained and repaired in that state, the witnesses and rescue operation were based in Louisiana, and everyone in the crash was working for a Louisiana company or living in Louisiana.

Plaintiff Karen Nelson, alleging negligence and products liability, originally filed the lawsuit on behalf of herself, her husband and the decedent's son in a Florida state court. Thereafter, Nelson was appointed personal representative of her son's estate, and her lawsuit was removed to federal court then transferred to Louisiana where related litigation, filed by the decedent's wife and others killed in the accident, was pending. The cases were consolidated, and the Louisiana federal court, applying the most-significant-relationship choice-of-law test, granted the defendants' motion to dismiss Nelson's suit, because Louisiana law does not permit a wrongful death claim by a decedent's parent when the decedent is survived by a child.

While the parties agreed that Florida's choice-of-law rules applied because the transferor court sits in Florida, Nelson argued that Florida's wrongful death statute has a "'statutory directive … on choice of law' requiring application of Florida law" under which she would have been allowed to pursue the action. Before amendment, the wrongful death statute provided, in part, "whenever the death of any person *in this state* shall be caused by the wrongful act …" After amendment, the statute provided, in part, "when the death of a person is caused by the wrongful act …" According to Nelson, this change qualifies as a directive under section 6(1) of Florida's choice-of-law statute, reflecting "a legislative intent that the act be applied extraterritorially without regard to which jurisdiction had the most significant contacts with the accident and the parties under Section 6(2)."

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 court disagreed and stated, "once most states had adopted the significant relationship test, the most reasonable explanation for the Florida legislature's deletion of the phrase 'in this state' was to avoid the obvious gap in coverage for the death of a Florida resident that occurred in another state. Accordingly, the most plausible explanation for the amendment was to *permit* (not mandate) recovery for death regardless of where the death occurred under circumstances where Florida law applied because Florida had the most significant relationship to the occurrence and parties."

FEDERAL COURT ALLOWS PRODUCT CLAIMS TO PROCEED AGAINST MAKER OF BABY SLING

A federal court in Washington has denied the defendants' motion for summary judgment in a product defect suit, finding that the case involved disputed facts as to when the plaintiffs knew or should have known through due diligence that the death of their 3-month-old daughter might have been caused by a baby sling; the court ruled that it would be up to the factfinder to determine if the three-year statute of limitations barred the suit. *Heneghan v. Crown Crafts Infant Prods., Inc.*, No. C10-05908RJB (U.S. Dist. Ct., W.D. Wash., order filed January 30, 2012).

In 2004, the plaintiff mother discovered that her daughter was unresponsive 10 to 15 minutes after she placed the baby in a baby sling while shopping. Paramedics restored the baby's heartbeat and breathing, but she was found to be brain dead at the hospital and died when removed from life support. The defendants pointed to evidence in the record that "asphyxia by snugli" was suspected in 2004 as a possible cause of the baby's death and that the mother's friend, a Dr. Tonia Jensen, reported the death to the Consumer Product Safety Commission (CPSC) a month later. Because the suit was not filed until December 2010, they claimed it was untimely under Washington's statute of limitations.

The plaintiffs pointed to evidence that CPSC's investigation concluded in 2005 that the death was a "terrible, freakish accident" involving SIDS. The mother claimed that she first became aware that the sling might have played a role in the death in March 2010, when she received a phone call from CPSC about a recall for a different brand of sling and an email providing her with a warning CPSC had just released about the suffocation hazard posed by slings in the first few months of life. She then purportedly contacted the medical examiner, who had told her in 2004 that the death was appropriately characterized as SIDS, and for the first time, in April 2010, said that positional asphyxia was a possible, but not proven, cause of the baby's death. The plaintiffs contended that this was the first time that a medical provider linked the death to the sling, and they filed the lawsuit eight months later, well within the three-year limitation period.

According to the court, "[w]hile the nonmoving party may not merely state that it will discredit the moving party's evidence at trial, here, the Plaintiffs have provided sufficient detailed factual rebuttals to Defendants' assertions regarding notice to

indicate that a genuine issue of material fact exists on this point. The judgment of the finder of fact is required to resolve the different versions of the facts asserted by the parties."

MISSOURI SUPREME COURT UPHOLDS STATUTORY CAP ON PUNITIVE DAMAGES AWARDED TO VEHICLE PURCHASER

A divided Missouri Supreme Court has determined that the punitive damages cap enacted by the legislature in 2005 does not violate the state or federal constitutions when applied to a statutory cause of action. ***Estate of Overbey v. Chad Franklin Nat'l Auto Sales N., LLC*, No. SC11369 (Mo., decided January 31, 2012)**. The issue arose in a case alleging that fraudulent representations made in connection with a vehicle's sale violated the Missouri Merchandising Practices Act (MMPA). A jury awarded the plaintiffs $4,500 in actual damages and $1 million in punitive damages. The latter award was reduced to $500,000 under a statutory cap that limits punitive damages in most cases to the greater of that amount or five times the net amount of the judgment awarded to the plaintiff.

The defendant argued on appeal that the punitive damages award violated his due process rights, while the plaintiffs contended that the statutory cap violates the separation of powers doctrine, their right to a jury trial and equal protection and due process principles, and constitutes a special law prohibited under the Missouri Constitution. All seven jurists concluded that the amount of the punitive damages award "was reasonable and proportionate to the harm inflicted by [the defendant] and did not violate due process." They disagreed, however, over the validity of the statutory cap.

According to the majority, because the legislature created the cause of action, it has the authority to "choose what remedies will be permitted" without violating the Missouri Constitution's right of trial by jury. Thus, "at least in regard to a statutorily created cause of action such as the MMPA," the legislature "did not 'intervene in the judicial process' or 'establish a procedure for adjudicating a substantive claim' in the manner prohibited by" prior case law. Rather, said the court, the legislature limited the substance of the claims themselves "as it has a right to do in setting out the parameters of a statutory cause of action. Indeed, it could have precluded recovery of punitive damages altogether." The court also rejected the plaintiffs' other constitutional law theories.

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Noting that the majority recognized the plaintiffs' right to a trial by jury in relation to their claim for punitive damages under the MMPA, the two dissenting judges said, "[h]aving given [the plaintiffs] the option to exercise their constitutional right to a jury trial, the legislature cannot limit that right statutorily." They further stated, "Once the right to a trial by jury attaches, as it does in this case, the plaintiff has the full benefit of that right free from the reach of hostile legislation…. The analytical

framework established by the principal opinion leaves the legislature free to limit punitive damages at $1 in even the most egregious cases. Although the plaintiff would still receive the benefit of the jury's factual findings regarding actual damages and the reprehensibility of the defendant's conduct, the benefit would be hollow from both a practical and constitutional perspective."

CALIFORNIA APPEALS COURT INSULATES RAW MATERIALS SUPPLIER FROM LIABILITY IN WORKPLACE INJURY CASE

The California Court of Appeal has held that, with few exceptions, companies supplying raw materials to a workplace cannot be held liable under negligence or strict liability theories for injuries sustained by an employee who works with those materials. *Maxton v. W. States Metals*, No. B227000 (Cal. Ct. App., 2d Dist., Div. 3, decided February 1, 2012). The plaintiff alleged that he "worked with and around" metal products manufactured and supplied by the defendants for more than 30 years and that he was "exposed to and inhaled toxicologically significant amounts of toxic fumes and dust." As a result of the exposure, the plaintiff alleged that he developed interstitial pulmonary fibrosis and other injuries that will require extensive medical treatment, hospitalizations and eventual organ transplantation.

Claiming that the companies fraudulently concealed the toxic hazards of their products and failed to provide or provided an inadequate material safety data sheet, the plaintiff alleged negligence; strict liability—failure to warn; strict liability—design defect; fraudulent concealment; and breach of implied warranties. The trial court dismissed the claims, finding that the second amended complaint did not state facts sufficient to constitute a cause of action.

On appeal, the court affirmed, relying on the component parts doctrine articulated in section 5 of the *Restatement Third of Torts, Products Liability* and *O'Neil v. Crane Co.*, 53 Cal.4th 335 (Cal. 2012). Additional details about *O'Neil* appear in the **January 26, 2012, issue** of this *Report*. The *Restatement Third* includes raw materials in the definition of "product components," and the court adopted that definition. According to the court, the metal products were not contaminated, defective nor inherently dangerous (in contrast to asbestos which releases fibers without any further manipulation in the workplace), conditions for which a raw materials supplier could be held liable.

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The court concluded that "the social cost of imposing a duty on defendants and expanding strict liability doctrine under the circumstances of this case far exceeds any additional protection provided to users of defendants' products, including [the plaintiff]." Requiring defendants "to assess the risks of using their metal products to manufacture other products" would necessitate the retention of "experts on the countless ways their customers … used their metal products. Defendants would also be placed in the untenable position of second-guessing their customers whenever

they received information regarding potential safety problems. We decline to expand the law of negligence and strict liability in that way." The court denied the plaintiff's request for leave to amend his complaint.

CALIFORNIA SETTLES CLAIMS THAT PERSONAL CARE PRODUCTS WERE NOT "FORMALDEHYDE-FREE"

According to California Attorney General Kamala Harris, GIB, LLC has agreed to settle claims that it deceptively advertised its Brazilian Blowout® hair care products as "formaldehyde-free." Under the terms of the agreement with the state, the company must warn consumers and hair stylists that "two of its most popular hair smoothing products emit formaldehyde gas." Shipments of those products, the "Brazilian Blowout Acai Smoothing Solution" and "Brazilian Blowout Professional Smoothing Solution," will now be accompanied by "a complete and accurate safety information sheet" including a Proposition 65 cancer warning, and the company must post a revised Material Safety Data Sheet on its Website.

The agreement also imposes testing obligations, the application of "CAUTION" stickers to the products and substantial corrective advertising.

The agreement also imposes testing obligations, the application of "CAUTION" stickers to the products and substantial corrective advertising. The company has further agreed to pay $300,000 in Proposition 65 civil penalties and $300,000 to reimburse the attorney general's fees and costs. *See California Office of Attorney General News Release*, January 30, 2012.

PUTATIVE CLASS CLAIMS PERSONAL CARE PRODUCTS ARE NOT "NATURAL" AS ADVERTISED

Alleging that Neutrogena Corp. markets a number of its products as "pure" and "natural" when they actually contain synthetic ingredients, a California resident has filed claims against the company in federal court on behalf of a nationwide class of consumers. *Stephenson v. Neutrogena Corp.*, No. 12-0426 (U.S. Dist. Ct., N.D. Cal., San Francisco Div., filed January 26, 2012).

Specifically focusing on the company's purifying facial cleanser, purifying pore scrub, face and body bar, and fresh cleansing and makeup remover, the complaint contends that the company uses "a marketing and advertising campaign that is centered around claims that the Products are natural." The plaintiff alleges that the campaign is "false and misleading because the Products contain various artificial and synthetic ingredients such as sodium benzoate, undefined, yet chemically-derived 'fragrance,' caprylyl glycol, acrylates copolymer, potassium sorbate, benzyl alcohol, cocamidopropyl betaine, cocamidopropyl hydroxysultaine, guar hydroxy-propyltrimonium chloride, pentasodium pentetate, tetrasodium etidronate and propylene glycol."

Alleging violations of the California Business & Professions Code—fraudulent acts and practices, unlawful acts, unfair acts and practices, and false advertising—violations of the Consumers Legal Remedies Act, and breach of express warranty, the plaintiff seeks injunctive relief, a corrective advertising campaign, an opportunity for businesses and individuals to obtain restitution, restitution, disgorgement, compensatory damages, attorney's fees, and costs.

PUTATIVE CLASS CHALLENGES KITTY LITTER COMPANY PROMOTIONS

Following the entry of an order in a lawsuit involving cat litter competitors, a New York resident has filed a putative nationwide class action in a California federal court, alleging that the Clorox Co. falsely advertises its Fresh Step® carbon-based cat litter as more effective at eliminating odors than its competitor's baking soda-based product. *Luszcz v. The Clorox Co.*, No. 12-0356 (U.S. Dist. Ct., N.D. Cal., filed January 23, 2012). According to the complaint, the court presiding over a dispute between the company that makes Arm & Hammer cat litter and Clorox issued an order in January "enjoining Clorox from airing its commercials, finding Clorox's claims about the odor elimination powers of carbon as compared to baking soda were 'literally false.'"

Alleging damages in excess of $5 million, the plaintiff claims that she was exposed to Clorox's ads, purchased its product "based on those claims and suffered injury in fact because of the unfair and deceptive trade practices described herein. Plaintiff did not receive the benefit of her bargain in each purchase of Fresh Step. Plaintiff further paid a price premium for each purchase of Fresh Step which she would not have paid if she was aware of the deception alleged herein." The complaint includes four counts: violation of the Consumers Legal Remedies Act, unlawful business acts and practices, false and misleading advertising, and breach of express warranty. The plaintiff seeks injunctive relief, compensatory damages, disgorgement, restitution, attorney's fees, costs, and interest.

ALL THINGS LEGISLATIVE AND REGULATORY

OMB Issues Status Reports on Regulatory Reform

The White House Office of Management and Budget (OMB) has issued **status reports** from federal agencies charged in January 2011 with reviewing their existing and pending regulations for possible modification or elimination to relieve unnecessary burdens and costs. OMB has asked the agencies to submit further reviews of their plans in May and September 2012.

According to Cass Sunstein, OMB's information and regulatory affairs administrator, 26 federal agencies have produced final plans "spanning over 800 pages and offering more than 500 proposals," with 16 independent agencies also submitting plans. "These changes are already producing measurable savings for consumers

and businesses," Sunstein said. "Over the next five years, more than $10 billion in savings are anticipated from just a small fraction of the hundreds of initiatives now underway." While several independent agencies submitted reports, the Consumer Product Safety Commission was not apparently among them. A number of changes involve streamlining procedures under regulatory requirements and shifting to paperless filing systems.

Of those submitting reports, the Department of Transportation (DOT) **lists** 13 National Highway Traffic Safety Administration measures completed in 2011 or still under review.

According to DOT, three rules relating to the motor vehicle safety standards on lamps, reflective devices and related equipment either would "cause undue hardship on the regulated entities" or would result in "no safety related costs or benefits." In addition, DOT has proposed allowing railroad companies to install certain equipment on trains only when needed for safety reasons, thereby potentially saving up to $755 million over 20 years.

The Department of Health and Human Services (HHS) **reports** that it is "undertaking a major review" of the Food and Drug Administration's Bar Code Rule for Drugs to account for "the availability of multiple types of bar codes and bar code readers on the market." FDA requests comments by February 23, 2012.

According to Sunstein, other agency updates include (i) the Department of Labor's efforts to finalize a rule harmonizing its hazards warning requirements with other nations to increase safety and save employers more than $1.5 billion over the next five years; (ii) the Environmental Protection Agency's plan to eliminate a requirement in many states calling for air pollution vapor recovery systems at local gas stations "on the ground that modern vehicles already have effective air pollution control technologies," thereby saving approximately $440 million over five years; (iii) the Department of Agriculture's **proposal** to streamline poultry inspections to save the private sector more than $1 billion over the next five years while increasing safety; and (iv) the Departments of Commerce and State's move to eliminate "barriers to exports, including duplicative and unnecessary regulatory requirements, thus reducing the cumulative burden and uncertainty faced by American companies and their trading partners." *See Cass Sunstein OMB Blog,* January 30, 2012.

CPSC Schedules Symposium on Phthalates Screening, Testing Methods

The Consumer Product Safety Commission (CPSC) has announced a **symposium** on screening and testing methods for phthalates in children's toys and child care products. Set for March 1, 2012, in Rockville, Maryland, the symposium is designed to help manufacturers, retailers and testing laboratories comply with phthalate limits and certification requirements mandated by the Consumer Product Safety Improvement Act of 2008. Comments are requested by February 27.

Phthalates are a group of industrial chemicals primarily used to make plastics, such as polyvinyl, chloride more flexible. In August 2011, CPSC identified two allowable phthalate testing methods for third-party conformity assessment bodies to use on children's toys and products: CPSC-CH-C1001-09.3 and GB/T 22048-2008.

The symposium will address these methods and feature technical presentations and discussion panels exploring "available and emerging technologies for detecting phthalates." Topics will include (i) "[m]ethods for increased quality control, from the manufacturing process to testing a final product," (ii) "[a]vailable chemical analysis instrumentation and techniques," (iii) "[a]dvantages and limitations of available technology," and (iv) "[e]merging organic chemical detection and quantification technologies." *See Federal Register,* January 30, 2012.

Congresswoman Calls for Reclassification of Tanning Beds as Medical Devices

Representative Rosa DeLauro (D-Conn.) has requested that the Food and Drug Administration adopt the recommendations of its medical devices advisory committee and reclassify tanning beds from their current Class I designation, which includes those "products generally recognized as safe, including band aids and tongue depressors." Referring to tanning beds as "cancer causing devices," DeLauro cites in her **February 3, 2012, letter** a recently released congressional investigative report indicating that 90 percent of surveyed tanning salons "stated that indoor tanning did not pose a health risk and 51 percent denied that indoor tanning would increase a fair-skinned teenager's risk of developing skin cancer." According to DeLauro, "[t]he direct-to-consumer advertising and promotion of tanning beds is blatantly providing misleading and dangerous information, especially to teens and young adults." *See Rep. Rosa DeLauro News Release*, February 3, 2012.

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LEGAL LITERATURE REVIEW

Mark Behrens & Cary Silverman, "State Court Endorses Use of Equitable Powers to Reduce Asbestos Suit Double-Dipping," *Washington Legal Foundation Legal Opinion Letter,* January 27, 2012

Shook, Hardy & Bacon Public Policy Partner **Mark Behrens** and Of Counsel **Cary Silverman** discuss a recent Pennsylvania Superior Court ruling that they characterize as "what is believed to be the first appellate-level decision to approve the use of a trial court's equitable powers to deduct bankruptcy trust recoveries from an asbestos plaintiff's tort system recovery for claims involving the same alleged injury." The trial court in the case deducted from the tort plaintiff's jury award the amount already collected from five asbestos bankruptcy trusts. The intermediate appeals court agreed that the evidence justified the trial court's finding that the bankrupt companies involved in the trusts were joint tortfeasors under the state's Uniform

Contribution Among Tortfeasors Act, which allows joint settlement monies received by the plaintiff to reduce the verdict against the defendant in the tort suit. The authors conclude that the ruling is "both logically and legally correct."

Andrew Popper, "In Defense of Deterrence," *Albany Law Review* (forthcoming 2012)

Declaring that "deterrence is a real and present virtue of the tort system," American University Washington College of Law Professor Andrew Popper suggests that tort-reform proponents err when they claim that civil tort liability has no effect on market participants. According to Popper, the tort system "is about fault and responsibility, obligation and foresight, carried out with the hope that civil justice produces a result that acknowledges plaintiff's losses and limits the possibility of plaintiff's tragedy. It is about deterrence."

In the author's view, "[w]hile there is literature suggesting that conventional views of sanction, censure, and punishment are in need of study, there is nothing to challenge the common sense notion that humans learn by example or that people tailor behavior to minimize sanction." He claims that nearly three-fourths of corporate in-house counsel responding to a survey agreed that "a tort judgment against a company in the same line of commerce would prompt their company 'to examine methods of production regarding the affected product [or service] and, if needed, quietly take steps to make sure our products are in compliance with applicable standards.'"

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LAW BLOG ROUNDUP

Legal Arguments You Might Not Want to Try

"Illinois court: don't blame railroad for asbestos delivery." Cato Institute Senior Fellow Walter Olson, blogging about the failed effort by plaintiffs' counsel in Illinois to hold a railroad company liable in negligence for alleged asbestos-related injuries because the company had delivered the asbestos to the plant where the plaintiffs were employed. Apparently, the justices stopped this argument "dead in its tracks."

Overlawyered.com, February 6, 2012.

Fairness of Class Action Settlement Challenged

"So, the attorneys got $2.7 million; as-yet-unidentified charities will get $0.4 million; and the class will get a money-back guarantee useful only to those class members who happen to save two-year-old diaper packaging and receipts and didn't previously request refunds. Can such a settlement be approved as fair?" Manhattan Institute

Center for Legal Policy Adjunct Fellow Ted Frank, discussing the appellate brief filed by the Center for Class Action Fairness, where he serves as president, in the proposed settlement of a class action involving Pampers Dry Max® disposable diapers.

PointofLaw.com, February 3, 2012.

THE FINAL WORD

ABA Delegates Pass Resolution Approving Model Law on Electronic Records

The American Bar Association's House of Delegates has reportedly adopted a resolution supporting the **Uniform Electronic Legal Material Act** "as an appropriate Act for those states desiring to adopt the specific substantive law suggested therein."

Developed by the National Conference of Commissioners on Uniform State Laws, the model act "provides states with an outcome-based approach to the authentication and preservation of electronic legal material," such as statutes, agency rules, court rules, and legal decisions. Those states adopting the model act would "harmonize standards for acceptance of electronic legal material across jurisdictional boundaries."

States would be permitted to determine which categories of legal information would be subject to the law and, for each category that a state chooses to publish in an electronic format, an official publisher would be named. This publisher would be responsible for implementing the act, "regardless of where or by whom the legal material is actually printed or distributed." The choice of technology for authentication and preservation would be left to each state, recognizing that technologies change over time and that a flexible approach will allow states "to choose the best and most cost-effective method for that state."

UPCOMING CONFERENCES AND SEMINARS

ABA, Phoenix, Arizona – March 28-30, 2012 – "2012 Emerging Issues in Motor Vehicle Products Liability Litigation." Shook, Hardy & Bacon Tort Partners **Robert Adams** and **H. Grant Law** join a distinguished faculty discussing an array of topics relating to motor vehicle litigation and products liability law during this 22nd annual national CLE program. Adams will present on "Communicating with the Modern Juror at Trial," and Law will serve as co-moderator of a panel addressing the topic, "An Automobile Is Only as Good as the Sum of Its Parts: The Component Parts Panel."

Shook, Hardy & Bacon Tort Associate **Amir Nassihi**, who is serving as conference co-chair, will join several panels to discuss "The Rise and Fall of the Consumer Expectations Test" and "The Blockbuster Developments in Class Action Litigation." He will also participate as co-moderator of a panel discussion addressing

"Managing and Developing the Corporate Counsel Relationship: The Inside View on Diversity, Retention and Client Expectations." 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. Business 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." ■

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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).