Shook, Hardy & Bacon L.L.P.

APRIL 28, 2011

# PRODUCT LIABILITY LITIGATION REPORT

CONTENTS



## ATHLETIC SHOE DISPUTE RETURNS TO STATE COURT

Addressing a question of first impression, a federal court in Arkansas has determined that a plaintiff met her burden of establishing that damages in her putative class action would not exceed the amount-in-controversy requirement of $5 million for diversity jurisdiction and, thus, that her case must be remanded to and tried in state court. *Tuberville v. New Balance Athletic Shoe, Inc.*, No. 11-01016 (U.S. Dist. Ct., W.D. Ark., El Dorado Div., decided April 21, 2011).

The case involves allegations that the defendants violated the state's deceptive trade practices law by promoting its athletic shoes with claims about unique muscle-activation and calorie-burning characteristics. When she filed the complaint, the plaintiff apparently attached affidavits explicitly limiting her potential recovery to less than $74,000 per putative class member and/or $5 million for the entire statewide class.

The court noted that, to remove a case to federal court under the Class Action Fairness Act, defendants first have the burden of showing by a preponderance of the evidence that the amount in controversy exceeds $5 million, and then the burden shifts to the plaintiff to show to a legal certainty that the potential recovery does not exceed $5 million. According to the court, "The question in the instant case, one which no other court has definitively answered, is whether a plaintiff may meet her legal certainty burden by stipulating at the time the complaint is filed that she will not seek more than the federal jurisdictional minimum for herself and the putative class."

The defendants argued that the plaintiff and her counsel have no authority to stipulate to a limited recovery that would bind the other class members; the plaintiff's claims, on their face, amount to more than the jurisdictional maximum allowed in state court; and the plaintiff's claims for equitable relief and for "such other relief as this Court deems just and proper" potentially include damages in excess of state court jurisdictional limits. Disagreeing with each of the defendants arguments, the court observed that the plaintiff is master of her complaint and may bind the putative class to a certain recovery because those objecting can opt out; the claims on their face do not exceed the jurisdictional minimum, given the defendants' failure to introduce evidence as to exactly how many customers it had in the state; and catch-all pleas for "such other relief as is just and proper" are too speculative to "potentially include various forms of injunctive relief and punitive damages."

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

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

***Gary Long***
*+1-816-474-6550*
*glong@shb.com*

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

*or*

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

Finding that the defendants did not satisfy their burden, but that the plaintiff did show by a legal certainty that the aggregate damages claimed on behalf of the putative class would not exceed $5 million, the court granted the plaintiff's motion to remand but denied her request for attorney's fees and costs in pursuing the motion.

## TRANSMISSION CAPABILITIES AT ISSUE IN BABY MONITOR LITIGATION; CLAIMS TO PROCEED

A federal court in Illinois has denied in part and granted in part a motion to dismiss a second amended complaint alleging that unencrypted baby video monitors should have been labeled and sold as such and that omitting this information violated consumer fraud laws. *Jamison v. Summer Infant (USA), Inc.*, No. 09-7513 (U.S. Dist. Ct., N.D. Ill., E. Div., decided April 18, 2011). According to the complaint, the unencrypted monitors are capable of transmitting sounds and images to a distance equivalent to the length of a football field and, unbeknownst to the plaintiffs, publically broadcast images of family members in the babies' rooms whenever the monitor was left on, including during breastfeeding and in various stages of dress.

The court determined that the claims were not preempted by federal law, because the plaintiffs' allegations involve the deceptive omission of material facts about the product on the outside packaging and not "the technical labeling requirements in the FCC [Federal Communications Commission] regulations." The court also disagreed with the defendants that a state law exemption for actions authorized by other agencies protected them from liability, because the FCC labeling requirement does not "'specifically authorize' anything relating to how the devices are marketed or advertised."

Rejecting the defendants' argument that the plaintiffs failed to state a claim under state law because they did not allege that their video monitors malfunctioned, the court said that this is not required under the law. The plaintiffs alleged that the defendants omitted information from the product packaging and advertising and that they "would not have purchased the Video Monitors, or paid the selling price for the Video Monitors, had they known that they were not encrypted." According to the court, this was sufficient to state a claim for the omission of material facts. The court also refused to dismiss the plaintiffs' claim for breach of implied warranty of merchantability, finding that the defendants' challenge addressed the merits and not the sufficiency of the claim. The court further allowed claims for unjust enrichment and negligence to proceed.

Because the manufacturer was not the "immediate seller" of the video monitors to the plaintiffs, however, the court granted the defendants' motion to dismiss a claim for breach of implied warranty against the manufacturer for lack of privity under Illinois law, which provides that privity of contract "only exists between buyers and immediate sellers."

## COURT OVERTURNS AWARD TO HOME BUILDER SEEKING INSURANCE COVERAGE FOR FAULTY STUCCO SIDING

A Texas appeals court has overturned a jury award in excess of $5 million rendered in favor of a home builder, finding that (i) the builder failed to distinguish at trial between the work it did to remove and replace defective stucco siding as a preventative and its costs to repair water damage to the homes, and (ii) the insurance policy at issue did not cover losses the builder incurred by settling homeowner claims without the insurer's consent. *Markel Am. Ins. Co. v. Lennar Corp.*, No. 14-10-00008 (Tex. App., decided April 19, 2011).

The insurance coverage claim arose from an imitation stucco siding product that the home builder applied to hundreds of Houston-area homes. The product apparently traps water behind it, causing damage to underlying structures from ongoing exposure to moisture. When the product began to fail, the home builder embarked on a "remarkable, business plan to proact upon its [siding] issues and remediate in the interest of customer relations." This ultimately led the home builder to strip the siding off every house to which it had been applied and replace it with conventional stucco, a project that consumed four and one-half years. The home builder sought coverage from its insurers, and only two remained after a first appeal of the case. After a settlement, a single insurer, which provided to the home builder a commercial umbrella policy with a $25 million limit that was excess to the primary policy, remained at trial. A jury awarded the home builder $2.9 million in actual damages, $1.2 million in prejudgment interest, $2.1 million for attorney's fees for trial, $250,000 for an appeal to the court of appeals, and $100,000 for an appeal to the Texas Supreme Court.

*The insurance coverage claim arose from an imitation stucco siding product that the home builder applied to hundreds of Houston-area homes. The product apparently traps water behind it, causing damage to underlying structures from ongoing exposure to moisture.*

The appeals court agreed with the insurer that the home builder's failure to apportion or distinguish covered losses from uncovered losses at trial resulted in a lack of sufficient evidence to prove that it had suffered a loss covered by the policy. According to the court, it rejected during the first appeal the home builder's argument that all costs to fully remove and replace the defective siding were covered property damage; as the court interpreted the policy, costs to remove and replace the product as a preventative measure were not covered property damage.

The court also determined that the losses were not recoverable under the policy because the home builder failed to obtain the insurer's consent to its homeowner settlements. So ruling, the court rejected the home builder's argument that the policy required the insurer to show it was prejudiced by the failure; the jury specifically found no prejudice to the insurer from the home builder's failure to obtain written consent. The court refused to rewrite the parties' policy or add a "prejudice" condition to its language.

## FEDERAL COURT DISALLOWS THIRD-PARTY INSURANCE CLAIMS FOR ENVIRONMENTAL COSTS; *IQBAL* AND *TWOMBLY* IMPLICATED

A federal court in California has ruled that an insurance company cannot recover payments made to a policyholder for environmental response costs as a matter of federal law, except in certain limited circumstances. ***Chubb Custom Ins. Co. v. Space Systems/Loral, Inc.*, No. 5:09-cv-04485 (N.D. Cal., decided April 20, 2011)**.

If followed by courts elsewhere, the decision may substantially diminish the value of a significant remedy to the insurance industry when settling claims for insurance coverage related to the remediation of environmentally contaminated property. The plaintiff has 30 days to decide whether to appeal the judgment to the Ninth Circuit Court of Appeals.

The court held that an insurance company could not assert an independent claim for cost recovery against potentially responsible third parties under section 107(a) of the federal Comprehensive Environmental Response, Compensation and Recovery Act (CERCLA), 42 U.S.C. § 9607(a), when the costs sought to be recovered are merely payments made pursuant to an environmental insurance policy. The court also held that the company could not assert a claim based on subrogation of its insured's underlying rights under CERCLA section 112(c)(2), when the insured had not independently pursued a claim against potentially responsible parties or against the federal Superfund. Finally, the court ruled that various supplemental state law claims asserted by the insurer (based, *e.g.*, on equitable subrogation and common law tort theories) were time-barred under the applicable California statute of limitations.

The court based its rulings on motions filed by several defendants, including Ford Motor Co., which was represented in the case by Shook, Hardy & Bacon LLP's San Francisco office, to dismiss plaintiff's third amended complaint under Rule 12(b)(6) of the Federal Rules of Civil Procedure.

Defendants had argued in a series of 12(b)(6) motions that the plaintiff had consistently failed to allege its CERCLA claims with a degree of plausibility sufficient to meet the minimum federal court pleading standards articulated in *Bell Atlantic Corp. v. Twombly*, 550 U.S. 554 (2007), and *Ashcroft v. Iqbal*, 129 S. Ct. 1937 (2009). With its most recent rulings, the court not only accepted these arguments, but also decided to (i) grant the pending dismissal motion *with prejudice*, and (ii) enter a judgment fully disposing of all aspects of the case (both federal and state) in favor of the defendants. The entry of judgment is particularly noteworthy, since none of the moving defendants was ever required to file an answer to the original or any subsequently amended versions of plaintiff's complaint.

*Defendants had argued in a series of 12(b)(6) motions that the plaintiff had consistently failed to allege its CERCLA claims with a degree of plausibility sufficient to meet the minimum federal court pleading standards articulated in* Bell Atlantic Corp. v. Twombly, *550 U.S. 554 (2007), and* Ashcroft v. Iqbal, *129 S. Ct. 1937 (2009).*

For more information about this decision or its implications for the insurance industry, please contact Shook, Hardy & Bacon Partner **Kevin Haroff** at 1.415.544.1961.

## ALL THINGS LEGISLATIVE AND REGULATORY

### Sanitizer Manufacturers Warned About Product Effectiveness Claims

The Food and Drug Administration (FDA) has issued warning letters to four companies that make sanitizing products, including first aid gels, mouth wash, antiseptic skin protectants, and hand cleaners and wipes, indicating that the companies' claims render their products "new drugs" under the Food, Drug, and Cosmetics Act, thus requiring that they be approved before marketing, and further are misbranded. The April 18, 2011, **letter** to Tec Laboratories, Inc. addresses the company's "Staphaseptic First Aid Antiseptic/Pain Relieving Gel."

*"Failure to promptly correct these violations may result in legal action without further notice, including, without limitation, seizure and injunction."*

Like the other letters, this one outlines in what ways the product claims run afoul of federal law and warns, "Failure to promptly correct these violations may result in legal action without further notice, including, without limitation, seizure and injunction." The companies' claims range from prevention of staph and MRSA skin infections to killing 99.9 percent of germs such as *E. coli* and *Salmonella*.

### FDA Calls on Cosmetics Maker to Correct Ads for Eyelash Enhancement Products

A company that makes, distributes and promotes products that can purportedly enhance the growth of eyelashes and eyebrows has been targeted by a Food and Drug Administration (FDA) warning **letter**. According to the April 18, 2011, letter, the company claims that its products lengthen and thicken eyelashes, and renew and regenerate skin cells to grow new eyebrows. FDA contends that because these products contain a synthetic prostaglandin, they are drugs under federal law. They are also "new drugs," "because they are not generally recognized as safe and effective under the conditions prescribed, recommended, or suggested in its labeling," and thus require pre-approval before marketing and sale. FDA also notes that prostaglandins can have significant side effects that require the direction and supervision of a "licensed practitioner." Without "adequate directions for use," according to FDA, the products are also misbranded. If the company fails to correct the violations cited, FDA advises that product seizure and an injunction could ensue without further notice.

### CPSC Revises Rule on Flammability Testing of Children's Clothing

The Consumer Product Safety Commission (CPSC) has issued a **notice** revising its rule on flammability testing for certain children's products, including clothing textiles. Effective April 22, 2011, CPSC will accept flammability tests performed on children's products by accredited third-party testing laboratories since August 18, 2009. The original rule had required that testing take place on or after August 18, 2010.

According to CPSC, the move responds to industry requests to reduce "unnecessary retesting of clothing textiles" already found to be in compliance with CPSC regulations.

The agency recognized that "due to the nature of the wearing apparel industry, there is a possible significant time lapse between fabric testing and the finished garment."

Under the revision, the commission has extended the period to accept "retrospective" testing if (i) the product was tested by an accredited third-party conformity assessment body; (ii) the third-party conformity assessment body's application for testing was accepted by CPSC on or before November 16, 2010; (iii) "the accreditation scope in effect for the third party conformity assessment body at the time of testing expressly included testing to 16 CFR part 1610"; (iv) "the test results show compliance with the applicable current standards and/or regulations"; and (v) "the third party conformity assessment body's accreditation, including inclusion in its scope of 16 CFR part 1610, remains in effect through the effective date for mandatory third party testing and manufacturer certification for conformity with 16 CFR part 1610." *See Federal Register,* April 22, 2011.

**CPSC Focuses on Testing Requirements for Portable Bed Rails**

The Consumer Product Safety Commission (CPSC) has **withdrawn** an advance notice of proposed rulemaking (ANPR) that initiated safety rules for portable bed rails under the Federal Hazardous Substances Act (FHSA). Issued on October 3, 2000, the ANPR was withdrawn effective April 11, 2011. Portable bed rails are devices "intended to be installed on an adult bed to prevent children from falling out of bed."

CPSC has instead **issued** a notice of proposed rulemaking that calls for "a more stringent safety standard for portable bed rails" than an applicable voluntary standard. Under the Consumer Product Safety Improvement Act of 2008, the agency is required to adopt standards for durable infant or toddler products "substantially the same as" applicable voluntary standards, but may adopt more stringent standards if it concludes that "more stringent requirements would further reduce the risk of injury associated with the product." CPSC requests comments from industry, standards groups, testing organizations, and other interested parties by June 27.

According to CPSC, 132 reported incidents involving bed rails occurred from January 1, 2000, through March 31, 2010, including 13 deaths and 40 nonfatal injuries. Two deaths resulted from "portable bed rail displacement, when the portable bed rail partially pushed away from underneath the mattress and allowed the child to fall into the opening and get trapped." Improper installation and "misassembly" contributed to eight fatalities.

*According to CPSC, 132 reported incidents involving bed rails occurred from January 1, 2000, through March 31, 2010, including 13 deaths and 40 nonfatal injuries.*

The proposed rule would establish "new performance requirements and associated test methods to address misassembly of portable bed rails" and require warning labels related to improper installation. The safety standard would take effect six months after publication of the final rule in the *Federal Register*.

Commissioner Nancy Nord, who voted to approve the proposed rule, issued a separate statement that referred to a proposed rule CPSC issued last year that would establish protocols and standards for testing all children's products. Nord said that she was "concerned about the attempt to develop a one-size-fits all testing program for all children's products. The proposed rule for portable bed rails provides the agency the opportunity to solicit information to develop a testing program that makes sense for this particular product." *See Statement of Commissioner Nancy Nord,* April 6, 2011; *Federal Register,* April 11, 2011.

**CPSC Issues New Safety Standards for Toddler Beds**

The Consumer Product Safety Commission (CPSC) has issued a **final rule** that aims to improve the safety of toddler beds. Effective October 20, 2011, the rule sets forth a new federal standard that addresses "entrapment in bed end structures, entrapment between the guardrail and side rail, entrapment in the mattress support system, and component failures of the bed support system and guardrails."

According to CPSC, four deaths and 43 injuries associated with toddler beds occurred between 2005 and 2010. In all, 122 reported incidents involved issues such as broken, loose or detached bed components; entrapment; product integrity issues; and inadequate mattress fit.

Required by the Consumer Product Safety Improvement Act of 2008 to issue a mandatory standard for toddler beds, CPSC has given manufacturers and importers six months to comply. The standards require that (i) "the upper edge of the guardrail must be at least five inches above the toddler bed's mattress," (ii) "spindle/slat strength testing for toddler beds must be consistent with the testing required for crib spindles/slats," and (iii) "separate warning labels to address entrapment and strangulation hazards must appear on toddler beds." The standard also applies to cribs that convert into toddler beds. *See CPCS News Release,* April 14, 2011; *Federal Register,* April 20, 2011.

*Required by the Consumer Product Safety Improvement Act of 2008 to issue a mandatory standard for toddler beds, CPSC has given manufacturers and importers six months to comply.*

In a related **notice**, CPSC has issued "the criteria and process for Commission acceptance of accreditation of third party conformity assessment bodies pursuant to the CPSC regulation relating to toddler beds." Effective April 20, 2011, the requirements mandate, among other things, that the products be tested by CPSC-approved and accredited third-party conformity assessment bodies by October 20, 2011, and that "the third party conformity assessment body's accreditation remain[] in effect through the effective date for mandatory third party testing and manufacturer/private labeler certification for the subject product's respective regulation." *See Federal Register,* April 20, 2011.

### California Legislators Consider Legislation on Vehicle Rentals Subject to Recalls

The California Assembly's Judiciary Committee has approved a **bill** (A.B. 753) that would prohibit vehicle rental companies from renting or selling a car subject to a safety recall notice, unless "the repairs necessary to correct the defect or noncompliance have been performed on the vehicle."

The proposal has been ordered to a second reading; it was scheduled to be considered during an April 26, 2011, committee hearing, but its consideration has been postponed.

Titled "The Rachael and Jacqueline Houck Rental Car Safety Act," the bill was named for sisters who died when an uncorrected steering defect in their rented vehicle allegedly led to a crash and fire. Vehicle rental companies apparently oppose the measure, suggesting that existing law already prohibits them from renting unsafe vehicles. If signed into law, the legislation would reportedly be the first in the nation to address the issue. *See The Mercury News*, April 5, 2011.

## LEGAL LITERATURE REVIEW

### Howard Erichson, "Foreword: Civil Procedure and the Legal Profession," *Fordham Law Review*, 2011

Fordham University School of Law Professor Howard Erichson has published an introduction to the law review's 2011 symposium on civil procedure and the rules governing the legal profession. According to Erichson, the symposium papers explore how the approaches to civil litigation problems of proceduralists (who tend to focus on political philosophy) and ethicists (who "more often look to moral philosophy") can "sometimes prove to be complementary, sometimes duplicative, and sometimes conflicting." Erichson describes rules of civil procedure as largely concerning the doings of the courts, while "rules of professional responsibility concern the doings of lawyers." Some of the papers explore the intersection of procedural and ethical obligations and how they can inform analyses of, for example, the discoverability of lawyers' work and the respective duties of lawyers to clients and the legal system.

*Some of the papers explore the intersection of procedural and ethical obligations and how they can inform analyses of, for example, the discoverability of lawyers' work and the respective duties of lawyers to clients and the legal system.*

### Colin Miller, "Stand in the Place Where You Live?: DDC Opinion Raises Questions About Whether Prospective Intervenors in D.C. Circuit Must Establish Article III Standing," *Civil Procedure & Federal Courts Blog*, April 21, 2011

This blog post, authored by John Marshall Law School Associate Professor Colin Miller, provides a detailed analysis of the question, "Should prospective intervenors have to establish standing before intervening?" According to Miller, a circuit split

arose after the U.S. Supreme Court amended Federal Rule of Civil Procedure 24(a)(2), with some saying "no," and others increasingly demanding or suggesting that propective intervenors "have an 'interest' greater than, or equal to, that necessary for standing or comply with certain standing requirements." His focus is on the D.C. Circuit and whether its answer is "yes" or "no." Apparently, recent decisions have divided over this narrow issue. Miller recommends an approach suggested by Professor Carl Tobias, who has said that the courts "should treat as paramount applicants' potential contributions to issue resolution."

## LAW BLOG ROUNDUP

### Product Liability How-To

"You can settle early and often, or you can play hardball with the plaintiffs' bar. And you can always lobby regulators and legislators for a little help from on high. (That help, of course, usually looks forward rather than backward). When it was faced with a flood of lawsuits over its popular Rhino off-road vehicle, folks at Yamaha Motor Co. said yes to all three approaches simultaneously." *WSJ* legal correspondent Ashby Jones, writing about how the company's strategy of settling some cases, "playing tough with plaintiffs' lawyers in court and tender with regulators" has largely allowed the company to weather the storm of defect claims.

*WSJ* Law Blog, April 25, 2011.

### First There Are New Opt Outs, and Then There Are New, New Opt Outs

"[I]f this is what attorneys are doing, the new, new opt-out requires 'clients' to opt out of an attorney-client relationship they never formed. The result is nothing short of lawless." Florida State University College of Law Assistant Professor Elizabeth Chamblee Burch, discussing how at least one law firm apparently attempted to solicit business related to the BP oil spill by making cold contacts with individuals who had no losses and directing them to send their financial records to the firm, as a prelude to make a claim on the compensation scheme established by BP. Chamblee Burch notes, "The claims pending before Ken Feinberg are NOT class actions. Thus, no attorney-client relationship exists absent either class certification and a judicial determination that lawyers are adequately representing absent clients or an individual's affirmative consent to enter into an attorney-client relationship." The blog post opens by discussing the mechanisms that lawyers have developed to resolve mass-tort cases outside the class-action process, including settlements that require plaintiffs' counsel to withdraw from representing those clients who refuse the deal. Chamblee Burch characterizes such efforts as the "new opt-out" where claimants have to opt out of their lawyer-client relationship if they do not wish to settle.

Mass Tort Litigation Blog, April 19, 2011.

### Rental Cars, Wet Wipes and Auto Mechanics

"About a year ago, the *Today Show* ran a piece about the filthy interiors of rental cars and ever since, I've been carrying around Wet Wipes. I tend to rent cars a lot. Now I realize that rather than Wet Wipes, I should be carrying around an auto mechanic." A Center for Justice & Democracy consumer advocate, blogging about current media and legislative focus on the practice of major vehicle rental companies to continue to rent cars after a recall if they believe the problem is not serious or not "a true safety recall."

The Pop Tort, April 20, 2011.

## THE FINAL WORD

### Briefing Paper Says Economic Effects of Government Regulations Overblown

The Economic Policy Institute has issued a **briefing paper** that discusses the impact of federal health, safety, environmental, and financial regulations on the economy and argues that regulatory opponents significantly overstate their costs. Titled "Regulation, Employment, and the Economy: Fears of job loss are overblown," the paper contends that "well-crafted regulations … protect people from harmful products, ensure prudent use of natural resources, and safeguard the environment," and provide vastly more in benefits than costs. The authors cite studies showing that few jobs are lost due to regulation and that industry estimates of the costs of regulation are often much higher than costs actually incurred.

## UPCOMING CONFERENCES AND SEMINARS

**Perrin Conferences**, New Orleans, Louisiana – May 5, 2011 – "The New Era of Product Liability Law—Emerging Issues Driving Mass Tort & Environmental Litigation." Shook, Hardy & Bacon Public Policy Partner **Mark Behrens** will serve as the moderator of a panel discussion titled "Update on Emerging Areas of Product Liability Litigation."

**DRI**, Chicago, Illinois – May 5-6, 2011 – "Drug and Medical Device Seminar." Co-sponsored by Shook, Hardy & Bacon, this 27th annual CLE program will include a presentation by Pharmaceutical & Medical Device Litigation Partner **Matthew Keenan**, who will discuss "Rambo vs. Atticus Finch: Ethical Consideration and the Preservation of Professionalism in Drug and Medical Device Litigation."

**Advanced Medical Technology Association**, London, England – May 18-20, 2011 – "2011 International Medical Device Industry Compliance Conference." Shook, Hardy & Bacon Government Enforcement & Compliance Partner **Nate Muyskens**

is scheduled to moderate a panel discussion on "Best Practices in Distributor Risk Management: Pre-Contract Diligence, Training, Auditing and Monitoring." Organized by medical device industry leaders, the conference will feature an array of panel discussions with distinguished speakers from around the world. Shook, Hardy & Bacon is a conference co-sponsor.

ACI, Chicago, Illinois – June 22-23, 2011 – "4th Advanced Forum on Defending & Managing Automotive Product Liability Litigation: Expert Defense Strategies for Singled-Out Vehicles and Media-Focused Issues." Shook, Hardy & Bacon Tort Associate Amir Nassihi will join a distinguished faculty to moderate a panel discussion on "The View from the Bench: A Unique Opportunity to Hear How Judges Interpret Evidence/Arguments in the Automotive Context." ■

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

## 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 our more than 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).