

**The ABA Section of Litigation Products Liability Committee
Ninth Annual Women in Products Liability Regional CLE Workshop
Thursday, November 13, 2008
Chadbourne & Parke LLP, 30 Rockefeller Plaza, New York, New York**

Common Fact Pattern: Consumer Product Defect

This year's workshop will address a hypothetical consumer product recall situation that will provide a practical framework for each panel's legal discussion. The fact pattern involves a fictitious company named Poppy Corp. that designs, manufactures and sells child development products, including a new line of character nightlights. Unbeknownst to Poppy Corp., a Foreign Company hired to manufacture the nightlight faceplate used an inferior plastic that can be easily broken, thereby exposing the wiring component and posing a risk of shock or fire. About 125,000 nightlights had been sold when Poppy Corp. was served with a complaint seeking damages resulting from a fire that destroyed a family home; and a putative nationwide class action asserting claims for consumer fraud has now been filed against it as well.

Continental Breakfast and Opening Remarks - 8:00 – 9:00 a.m.

Analyzing and Handling a Product Recall – 9:00 – 10:15 a.m.

A product manufacturer faces a host of issues when it is put on notice of a potential product defect. This panel will explore the steps that a manufacturer might be advised to take in the circumstances discussed in the hypothetical, including whether to undertake a product recall; what the logistics of such a recall might entail; and the potential litigation consequences of a recall versus a decision not to recall the product. This panel will also provide an overview of the authority and resources of the Consumer Product Safety Commission with respect to these issues.

Moderators:

Kali Brace, Partner
Jenner & Block LLP, Washington, D.C.

Mary Yelenick, Partner
Chadbourne & Parke LLP, New York, NY

Panelists:

Stacey Dixon-Callahan, Senior Counsel
Takeda Pharmaceuticals North America, Inc., Deerfield, IL

Cheryl Falvey, General Counsel
U.S. Consumer Product Safety Commission, Washington, D.C.

Jennifer Saulino, Associate
Covington & Burling LLP, Washington, D.C.

E-Discovery: A "How To" for Products Liability Lawyers - 10:30 – 11:45 a.m.

Everyone is now familiar with the E-discovery amendments to the Federal Rules of Civil Procedure. This panel will focus on practical advice for applying these rules in connection with the Poppy Corp. recall and/or litigation, including how to counsel your client regarding how the rules affect and require their participation and cooperation, how to prepare and implement a litigation hold, how to investigate a client's electronic data, consideration of various methods for producing electronic data and the related costs, and how to prepare for and conduct a Rule 26 conference with opposing counsel.

Moderators:

Courtney Fletcher, Associate
Alston & Bird LLP, Atlanta, GA

Wendy Tucker, Partner
Sedgwick, Detert, Moran & Arnold LLP, Los Angeles, CA

Panelists:

Emily Baker, Associate
Jones Day, Atlanta, GA

Joanne Lichtman, Partner
Howrey LLP, Los Angeles, CA

Steve Sokolow, Vice President and Associate General Counsel
Novartis Corporation, New York, NY

Stephen D. Whetstone, Vice President
Stratify, Inc., Boston, MA

NETWORKING LUNCH 11:45 – 1:15 p.m.

Preparing to Make or Break an Expert Witness Through a Daubert Challenge – 1:30 – 3:00 p.m.

Expert witnesses can make or break a products liability case. In connection with the Poppy Corp. litigation, plaintiffs' expert has opined that Poppy Corp.'s nightlight contains defects and that such defects were the cause of property damage in this case. Poppy Corp.'s expert has submitted a contrary opinion. Each side has filed a *Daubert* challenge to the opposing parties' expert. This panel will address practical tips on how to prepare an expert for a *Daubert* challenge and how to conduct an effective direct and cross-examination of an expert during a *Daubert* hearing. A mock *Daubert* hearing will be conducted.

Moderators:

Eve Henson, Partner
Sayles Werbner, Dallas, TX

Jessalyn Zeigler, Partner
Bass, Berry & Sims, PLC, Nashville, TN

Panelists:

The Honorable Naomi R. Buchwald, United States District Judge,
Southern District of New York, New York, NY

Sandra A. Metzler, D.Sc., P.E., Technical Consultant [pending]
SEA, Ltd., Columbus, OH

Andrea Roberts, Partner
Baker & Daniels, Indianapolis, IN

F.M. Turner III (Rae)
F.M. Turner, III, PLLC, Hattiesburg, MS

Afternoon Break – 3:00 – 3:15 p.m.

Witness Preparation: Avoiding Ethical Quagmires - 3:15 – 4:15 p.m.

Thorough preparation is critical to a witness's performance at deposition and trial. But extensive preparation can sometimes veer into improper witness coaching and defining the line between the two is not always easy in the heat of the moment. Lawyers regularly face scenarios when preparing a witness or defending a client or expert that require smart and instant ethical decisions. This panel will discuss the implications and parameters of Model Rules of Professional Conduct 3.4(b) and 8.4(a), (c) and (d) and will present effective techniques to recognize, avoid and combat ethical quagmires that can arise when preparing and defending witnesses in a products liability case.

Moderators:

Helen Kathryn Downs, Partner
Johnston Barton Proctor & Rose, LLP
Birmingham, AL

Adrienne Gonzalez, Associate
Kaye Scholer LLP, New York, NY

Panelists:

Candace A. Blydenburgh, Partner
Bowman & Brooke, Richmond, VA

Andrew S. Pride, Office of General Counsel
Ford Motor Company, Dearborn, MI

Michael S. Ross, Principal
Law Offices of Michael S. Ross, New York, NY

Daniel I. Small, Member
Holland & Knight LLP, Miami, FL

Managing and Developing Your Legal Career - 4:15 – 5:15 p.m.

Many of us will practice law in one way or another for 30 plus years despite the fact that we do not always feel in control of our careers or know exactly which road to follow. Are you a lawyer who wants to assist the family whose home was destroyed by the allegedly defective nightlight or would you rather represent and advise Poppy Corp.? Are you drawn to working as an in-house attorney for Poppy Corp., by either directing the litigation with outside counsel, dealing with the government entities and regulations, or taking on the business side of the recall and product development issues? Perhaps you would rather teach a class on product liability law or work for a government entity regulating consumer products? Learn from our panelists' amazingly varied careers -- how they have combined different methods of practicing law, the steps they recommend to enhance your own career opportunities, how to manage the ups and downs of a legal practice, and how to engage in work that reflects your personal values and goals.

Moderators:

Amy Fischer, Partner
Foliant Huff Ottaway & Bottom
Oklahoma City, OK

Stephanie Scharf, Partner
Schoeman, Updike & Kaufman, LLP, Chicago, IL

Panelists:

Wendy Fleishman, Partner
Lief Cabraser Heimann & Bernstein, LLP, New York, NY

Lisa M. Floro, Counsel
Bayer Corporate & Business Services LLC, Pittsburgh, PA

Carol Robles Roman, Law Department
Office of the Mayor (Michael Bloomberg), New York, NY

Sara Turnipseed, Partner
Nelson Mullins Riley & Scarborough LLP, Atlanta, GA

***Networking reception to follow at Chadbourne & Parke LLP
Stay an extra day and attend the Section of Litigation Products Liability Committee
Pharmaceutical Joint Regional CLE Workshop
Friday, November 14, 2008 at Pfizer in New York***