Women Lawyers

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Are we disrupting the bias female attorneys experience inside and outside the courtroom enough?
No.
Bias Basics: ABA Findings

Tightrope  Maternal Wall  Compensation  Sexual Harassment
Diverse workgroups perform better and are more committed, innovative, and loyal.
Higher Collective Intelligence
Millennial Jurors
Hope
“...it’s not always enough to lean in because that sh#% doesn’t work all the time.”
Where to Start

- Hiring
- Work assignments
- Evaluations
- Compensation
Interrupting Structural Bias

- Use metrics
- Implement appropriate bias interrupters
- Assess and repeat as needed
Recommended Reads

- *Becoming*
  Michelle Obama

- *Between the World and Me*
  Ta-Nehisi Coates

- *Blink*
  Malcolm Gladwell

- *Good and Mad: The Revolutionary Power of Women’s Anger*
  Rebecca Traister

- *What Works for Women at Work: Four Patterns Working Women Need to Know*
  Joan C. Williams, Rachel Dempsey
"People ask me sometimes ... 'When will there be enough women on the court?'

And my answer is: 'When there are nine.'"

Ruth Bader Ginsburg
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Ruth Bader Ginsburg
Recent Trends in Food + Beverage Litigation
Panelists

Timothy G. Blood
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Shook, Hardy & Bacon
Partner
Kansas City, Missouri

MODERATOR
Amir Nassihi
Shook, Hardy & Bacon
Overview

1. Recent Filing Trends
2. Prop 65 Overview
3. Class Action Developments
Recent Filing Trends
Where are the claims being made?

California, New York, Illinois, Florida, Missouri
Filing Trends | 2018

False Labeling + Reasonable Consumer

Evolution of “All Natural”

Cutting the “Slack”
Diageo-Guinness Sued Over Alleged Deceptive Marketing

Country of Origin Claims
Standard of Identity: Is all Guinness brewed in Ireland?
Roundup For Breakfast: Weed Killer Found In All Kids’ Cereals Sampled

Glysophate
Recent lawsuits filed against General Mills + Kellogg
FALSE LABELING TRENDS

Re-emergence of Reasonable Consumer

Can any statements in the release be used as an admission against your client in court?
How these have changed

- Synthetic v. Naturally-Sourced Malic Acid
- Numerous class actions survived motions to dismiss
- Class action certified against Ocean Spray
Prop 65 Overview
What is Prop 65 + What Changed In 2018?

“No person in the course of doing business shall knowingly and intentionally expose any individual to a chemical known to the state to cause cancer or reproductive toxicity without first giving a clear and reasonable warning...”

HEALTH & SAFETY CODE § 25249.6
oehha.ca.gov/proposition-65/proposition-65-list
Food Warnings | Content

**WARNING:** Consuming this product can expose you to chemicals including [name of one or more chemicals], which is [are] known to the State of California to **cause birth defects or other reproductive harm.** For more information go to…

**WARNING:** Consuming this product can expose you to chemicals including [name of one or more chemicals], which is [are] known to the State of California to **cause cancer**. For more information go to…

**WARNING:** Consuming this product can expose you to chemicals including [name of one or more chemicals], which is [are] known to the State of California to **cause cancer and birth defects or other reproductive harm.** For more information go to…

**WARNING:** Consuming this product can expose you to chemicals including [name of one or more chemicals], which is [are] known to the State of California to **cause cancer** and [name of one or more chemicals], which is [are] known to the State of California to **cause birth defects or other reproductive harm.** For more information go to…
Food Warnings | Method of Transmission

WHERE?

• Sign, shelf tag or shelf sign
• Via an electronic device prior to or during checkout
• On the food label

WHAT SIZE?

“Consumer product exposure warnings must be prominently displayed ... with such conspicuousness as compared with other words, statements, designs or devices ... as to render the warning likely to be seen, read and understood by an ordinary individual under customary conditions or purchase or use.”
Notice to Retailers + Other Downstream Entities

Affirmative Defense

Switch traditional flow of Indemnification

Contracts are still key
OEHHA: Proposed Regulations

- Eliminate warnings for acrylamide in coffee in response to the Starbucks decision
- Alter the conduct of exposure assessments, aiming to modify the rulings upheld in 2015 by an appellate court in Environmental Law Foundation v Beechnut Nutrition Corp., et al.
- Amend regulations which dictate how to calculate exposure to reproductive toxicants for average consumers
- Disallow averaging of sampling data from different manufacturers or production facilities
- Mandate use of the arithmetic mean, not the geometric mean
Class Action Developments
Does Bristol Myers apply to class actions?
Did we learn anything?
What are the challenges?
EXPERT EVIDENCE

How / when to substantiate your claim?
Final Thoughts

Questions?