

ANNUAL CONFERENCE prop.65clearinghouse

MONDAY, SEPTEMBER 19, 2022

JULIA MORGAN BALLROOM

9:30 to 10:30 Analytical Testing of Your Product: What Companies Need to Know Before and After They Get a 60-Day Notice

Moderator:
Panel:

Greg Sperla, Attorney, DLA Piper
Justin Burmeister, Director of Chemistry and Business
Innovation, ATS Labs
Holly Foley, Scientist, Keller & Heckman
Tom Lewandowski, Principal, Gradient
Margaret Whittaker, Managing Director and
Chief Toxicologist, ToxServices

Bios

Greg Sperla Attorney, DLA Piper

Greg Sperla is a litigator and regulatory attorney protecting clients in complex litigation and regulatory enforcement matters. He is focused on the science of consumer products, food and beverages, and is broadly experienced in domestic and global regulation of consumer goods and disputes. On behalf of manufacturers, distributors and retailers, Mr. Sperla has conducted trials and appeals and defended matters against local, state, and federal agencies.

Mr. Sperla has advised companies of all sizes, including startups and Fortune 500s in dozens of industries, on matters involving California's Proposition 65, consumer class actions, administrative proceedings, permitting and licensure, hazardous waste, regulatory enforcement, and product labeling and marketing rules, among other issues. He has also advised major trade associations on critical legislative and regulatory matters.

Mr. Sperla is an active litigator with significant experience in federal and state court, including the state's busiest complex litigation departments. He is one of the few attorneys to have obtained a post-trial judgment requiring a Proposition 65 "bounty hunter" to pay costs to a defendant. His passion for both science and civil procedure is reflected in multiple publications, presentations, and panels on cutting-edge issues affecting California litigants and a wide array of companies.

Analytical Testing of Your Product

EXPERIENCE

- Represented a Fortune 500 consumer product company at trial and on appeal in a Proposition 65 lawsuit that resulted in a judgment for the company and an award of costs from the plaintiff, a Proposition 65 “bounty hunter.”
- Obtained a non-prosecution commitment for an industrial equipment manufacturer from the Enforcement Division of the California Air Resources Board
- Persuaded multiple state agencies, including the California Office of Environmental Health Hazard Assessment and California Department of Agricultural to adopt regulations or modify policies for manufacturer or trade association clients
- Obtained the withdrawal of or agreement not to prosecute dozens of pre-litigation notices of violations of Proposition 65 and the California Consumer Legal Remedies Act
- Negotiated the record lowest settlement of a Proposition 65 matter with prolific Proposition 65 bounty hunter Shefa LMV
- Negotiated numerous unique, industry-leading Proposition 65 settlements for Fortune 500 companies, including a novel settlement for the tea industry approved over the objections of the California Attorney General
- Advised both upstream and downstream companies in contract negotiations and indemnity disputes, and prepared dozens of client-tailored supplier agreements and other documents
- Assisted both startups and multinational corporations on the preparation, drafting, and implementation of compliance programs for a wide variety of regulatory schemes and the investigation and assessment of potential regulatory violations
- Assisted in the successful development of hundreds of new consumer products, including advise as to state and federal marketing and labeling, formulations, supply chain, and packaging issues, among many others
- Coordinated the simultaneous transfer of over 100 licenses and permits in several states involving over a dozen regulatory agencies on behalf of the purchaser of a West Coast pest control and pesticide business

PUBLICATIONS

- New California law adds significant restrictions for recycling claims on products and packaging: action steps, 6 January 2022
- California Proposition 65: OEHHA modifies its proposed changes to popular short-form warning – key points, 16 December 2021
- Preliminary injunction granted in Cal Chamber lawsuit concerning acrylamide Prop 65 warning, 1 April 2021
- California Air Resources Board proposes cuts to VOC limits in consumer products, 17 March 2021
- California Prop 65: OEHHA proposes changing popular short-form warning, 3 February 2021

RECOGNITIONS

- The Legal 500 United States
- Recommended, Product Liability, Mass Tort and Class Action: Consumer Products (including Tobacco) (2022)
- Recommended, Product Liability, Mass Tort and Class Actions: Toxic Tort - Defense (2022)

FELLOWSHIP

- Senate Fellow, Capital Fellows Program, Class of 2007-2008

Justin Burmeister

Director of Chemistry and Business, ATSLabs

Justin Burmeister currently holds the position of Director of Chemistry and Business Innovation for Applied Technical Services, LLC (ATS), an engineering, testing, inspection, and certification firm headquartered in Marietta, GA. Justin has worked at ATS for 16 years and during that time has provided technical consulting to a variety of industries including in the consumer products, automotive, aviation, power generation, defense and medical device markets.

He graduated from Mercer University and holds a degree in Chemistry, Biochemistry and Business Administration.

Holly Foley

Scientist, Keller & Heckman

Holly Foley specializes in numerous regulatory areas, including foods, food packaging, drugs, and related environmental issues.

Holly's primary expertise is in the evaluation of the status of food ingredients and packaging materials, the development of testing plans to obtain needed data, and the preparation of food additive petitions and food contact notifications to achieve Food and Drug Administration (FDA) clearances; she also has expertise in similar submissions to comparable foreign agencies.

With nearly 40 years of experience at Keller and Heckman, Holly has helped our clients establish regulatory compliance for thousands of products. She has developed hundreds of submissions to FDA and regulatory authorities in the European Union (EU), China, and MERCOSUR (Mercado Común del Sur) countries. Holly is also a key part of the firm's work in developing bases for establishing compliance for products in the absence of specific clearances.

Holly's achievements include helping clients to obtain FDA clearance for non-nutritive sweeteners and enzyme preparations used in food and food processing, refrigerants, and blowing agents used as CFC substitutes in accordance with the Montreal Protocol, and international approvals for novel biocides used in food safety applications. She is uniquely qualified to provide detailed guidance to clients on chemical, toxicological, and environmental testing, to work in collaboration with testing labs, and to assist in interpretation of data.

Holly is skilled at presenting and defending data to agency personnel, and in bringing creative thinking and analysis to a wide range of products spanning all types of packaging, processing materials, and food ingredients. She has conducted numerous trainings for clients and industry groups throughout the U.S., Europe, and Japan. She uses her analytical skills and understanding to bridge regulatory and scientific considerations and to facilitate favorable resolutions for our clients' most complex and challenging issues.

Education

Massachusetts Institute of Technology, B.S., 1981

Tom Lewandowski

Principal, Gradient

Dr. Lewandowski is a toxicologist and chemist working in Gradient's Seattle, Washington office. He has over 30 years of experience in the areas of product safety evaluation, pharmacokinetics, metals toxicology, and developmental toxicology. He has helped numerous clients respond to 60-day notices and avoid receiving such notices by understanding the likelihood that different materials in their products contain Prop65-listed chemicals.

He has also developed Proposition 65 safe harbor limits and designed supply chain chemical testing programs. Tom is board certified as a toxicologist in both the US and Europe. He is an affiliate faculty member at the University of Washington School of Public Health where he lectures on toxicology and risk assessment.

He is the author of numerous publications related to risk assessment methods (in particular the use of computer models).

Margaret Whittaker

Managing Director Chief Toxicologist, ToxServices

Dr. Margaret "Meg" Whittaker is the Managing Director and Chief Toxicologist of ToxServices LLC. Dr. Whittaker is one of the pioneers in the field of chemicals alternatives assessments, and is a key contributor to advancing these methods around the world. She is an accomplished human health risk assessor, and performs quantitative exposure and risk assessments for projects including California Proposition 65 safe harbor assessments, medical device extractables and leachables assessments, and cosmetics/personal care product assessments, among others.

Dr. Whittaker is a Diplomate of the American Board of Toxicology who earned a Ph.D. in Toxicology from

The University of Maryland, Baltimore and an M.P.H. in Environmental Health from The University of Michigan. Dr. Whittaker is a U.K./EuroTox Registered Toxicologist, as well as a Chartered Biologist and Fellow of the U.K. Royal Society of Biology.