

Plenary Session

11:20 to 12:20

**Litigating, Regulating And Reformulating
Acrylamide In Foods**

Moderator: **Carol Monahan-Cummings**, Chief Counsel, OEHHA
 Panel: **Sarah Esmaili**, Counsel, Arnold & Porter Kaye Scholer
Howie Hirsch, Partner, Lexington Law Group
Judith Praitis, Partner, Faegre Drinker Biddle & Reath
Margaret Whittaker, Managing Director & Chief Toxicologist,
 ToxServices

Bios**Carol Monahan-Cummings**
Chief Counsel, OEHHA

Carol Monahan Cummings was appointed Chief Counsel at the Office of Environmental Health Hazard Assessment (OEHHA) in October 2003 and was reappointed by Governor Brown in December 2012. In this capacity, Ms. Cummings advises the Director, other Executive Office members, as well as OEHHA staff on all legal matters affecting the Office. Principal areas of practice include: Proposition 65 implementation, developing and amending various regulations, serving as counsel for the Carcinogen Identification Committee, the Developmental and Reproductive Toxicant Committee, and the California Biomonitoring Scientific Guidance Panel as well as serving as liaison to the Attorney General's Office for all lawsuits where OEHHA is a party.

Prior to coming to OEHHA Ms. Cummings served as an Assistant General Counsel for the California Environmental Protection Agency between September 2001 and October 2003. She was primarily responsible for providing legal support for the Environmental Justice program, legal advice concerning ethics and personnel issues for the Agency as well as for coordinating cross-media enforcement task forces, investigations and related litigation.

Before coming to Cal/EPA, Ms. Cummings was a prosecutor with Sacramento County where she prosecuted criminal and civil environmental enforcement cases including illegal hazardous waste transportation, storage and disposal cases; and water and air pollution cases.

Ms. Cummings received her law degree from Empire College School of Law in Santa Rosa, California where she graduated Magna Cum Laude in 1995.

Sarah Esmaili

Counsel, Arnold & Porter Kaye Scholer

Sarah Esmaili focuses on litigation defending clients in California Proposition 65, consumer protection, and class action cases. She has represented companies in failure to warn claims involving a wide range of consumer product and service industries. She often handles cases involving newly emerging chemical exposure claims where she works with experts in the fields of toxicology and epidemiology.

She has experience in joint representation of companies in cases that concern issues of industry-wide significance and has represented industry groups as plaintiffs in litigation that challenges regulations. She has expertise in developing creative settlement solutions that are tailored to business objectives.

Ms. Esmaili's practice also includes counseling companies with respect to a variety of regulatory product safety laws.

Ms. Esmaili has experience in all phases of litigation. She participated in the San Francisco District Attorney's volunteer program where she successfully prosecuted several jury trials.

Ms. Esmaili has handled significant pro bono matters. Her experience includes developing and preparing a petition for habeas corpus in a death penalty case where she managed a team of attorneys and which resulted in the California Supreme Court issuing an order for further proceedings based on juror misconduct claims. She has also successfully handled political asylum cases. She's the recipient of the Keta Taylor Colby Pro Bono Award.

Howie Hirsch

Partner, Lexington Law Group

Howard Hirsch has devoted his career to representing plaintiffs in public interest litigation to protect consumers, conserve natural resources, and eliminate health threats from toxic chemicals. Mr. Hirsch's practice includes significant experience enforcing California's Proposition 65 and litigating class actions against, among others, technology companies, health care providers and insurers, and consumer product manufacturers. These cases have resulted in significant reductions in human exposures to toxic chemicals, changes in deceptive business practices, and the recovery of millions of dollars for the benefit of consumers.

Mr. Hirsch graduated from Berkeley School of Law in 1996 and from Boston College in 1993. After obtaining two years of training and experience at complex litigation with a large commercial law firm, Mr. Hirsch spent five years as a staff attorney at a national, non-profit environmental group representing individuals and other non-profits in citizen suits against polluters under the Clean Water Act, Clean Air Act, and other federal statutes. Mr. Hirsch joined the Lexington Law Group in 2003 and is a principal of the firm.

Mr. Hirsch is also a volunteer arbiter for the San Francisco Department of Human Services resolving disputes between homeless shelters and their residents. When not practicing law, Mr. Hirsch enjoys spending time outdoors with family and friends.

Judith Praitis

Partner, Faegre Drinker Biddle & Reath

Judith Praitis counsels clients on environmental transactional issues and on air, water and waste management permitting, compliance, release reporting and enforcement issues under California and federal law. With decades of experience in environmental law, Judith is a trusted source of legal and business guidance for clients working to develop and implement environmental management systems, audit compliance protocols, and anticipate and adapt to emerging regulatory environments. Judith has particular experience managing complex environmental matters for distressed entities, or those with material legacy environmental liabilities, to orchestrate a controlled resolution of such obligations. She is particularly adept at crafting novel settlements with governmental regulators and prosecutors.

Hazardous Waste Management and Site Remediation

Judith has established herself as an authority in hazardous waste management and site remediation, including the redevelopment of oil field properties and military bases. This experience has also given Judith the knowledge and perspective to confidently assist clients in the legal aspects of brownfields redevelopment. In these matters, she has represented clients in various industries, including chemical producers, hotel companies, food products manufacturers, real estate developers, solar energy companies and health care facilities.

In California, Judith has appeared before the South Coast Air Quality Management District (SCAQMD) and the Bay Area Air Quality Management District (BAAQMD) and has dealt with various regional water quality control boards, the State Water Resources Control Board, and the California Environmental Protection Agency (CalEPA) Department of Toxic Substances Control (DTSC). She has worked with all of California's major regulatory authorities, including the Coastal Commission, Department of Fish and Wildlife, and the Board of Equalization. Over the years, Judith has also resolved California Air Resources Board (CARB) enforcement matters, particularly those concerning volatile organic compound (VOC) consumer product content regulations.

Transactions and Environmental Due Diligence

Through environmental due diligence, insurance and risk mitigation counseling, Judith delivers peace of mind to clients pursuing and finalizing major transactions. She prepares and submits filings for the Securities and Exchange Commission and reviews environmental provisions in leases, loan documents, sale contracts and other contracts on behalf of lenders, borrowers, issuers, buyers, sellers and investors. Some of these transactional matters have involved valuing, banking and trading emissions credits. Judith has managed several large, multi-state, multinational environmental diligence reviews involving hundreds of properties throughout the U.S. and abroad. She has worked on complicated bankruptcy filings and transactions requiring management of environmental matters in jurisdictions throughout the country.

Federal Environmental Law

Judith counsels clients on Resource Conservation and Recovery Act (RCRA) compliance, Superfund case management, stormwater compliance, Emergency Planning and Community Right-to-Know Act (EPCRA) matters and release reporting. In addition, she has participated in the federal rule-making process, including formal administrative and legal challenges to U.S. Environmental Protection Agency (EPA) rules, and has helped to negotiate consent decrees and resolve federal enforcement matters.

California Proposition 65

Judith advises clients on compliance with and, if necessary, litigation of, Proposition 65 matters, particularly those involving the food and supplement industries and other consumer products. She assists clients with compliance under many of California's product- and chemical-specific regulatory regimes, including the Green Chemistry Initiative.

Judith's Proposition 65 representations include some of the most significant and complex matters involving the legislation, including several prosecuted by the Office of the Attorney General of the State of California. Her Proposition 65 work includes cases involving:

- ♦ Bottled water
- ♦ Chocolate
- ♦ Ginseng
- ♦ Progesterone creams
- ♦ Brass fixtures
- ♦ Children's vitamins
- ♦ Dietary supplements
- ♦ Supplements containing alcohol
- ♦ Meal replacement bars
- ♦ Textiles
- ♦ Glassware
- ♦ Electrical cords

- ♦ Plastic and vinyl products
- ♦ Alleged exposures at hotels

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.