

vCONFERENCE

prop.65clearinghouse

# Annual Conference

Monday, September 21, 2020

## Warning Regulations

Plenary Session

10:00 to 11:00

### Warning Regulations: Allocating Responsibility In The Distribution Chain And Third Party Platforms

Moderator: **Fiona Smith**, Writer, Prop. 65 Clearinghouse and CEI Today  
Panel: **Roxy Carter**, Deputy Attorney General  
**Mario Fernandez**, Senior Counsel, OEHHA  
**John Hewitt**, Senior Director, State Affairs, Consumer Brands Association  
**Rachel Michelin**, President, California Retailers Association  
**Eric Somers**, Principal, Lexington Law Group

#### Bios

##### **Fiona Smith**

Writer, Prop. 65 Clearinghouse and CEI Today

Fiona is a writer for California Environmental Insider. Previously, she was a staff writer at the Los Angeles and San Francisco Daily Journal for more than eight years covering environmental and energy law. Fiona has also worked as a reporter for the Associated Press in Bolivia and Mexico and was a staff writer for the Whittier Daily News.

Fiona holds a dual Master's degree in Journalism and Latin American Studies from UC Berkeley and a BA in English, with honors, from UC Berkeley.

##### **Roxy Carter**

Deputy Attorney General

Roxy Carter is a Deputy Attorney General for the California Department of Justice and practices environmental law. After graduating and passing the California State Bar, she travelled through-

out Latin America, volunteering as a Pro Bono attorney with environmental and marine conservation organizations in Puerto Rico, Costa Rica, Panama and Colombia. She continued to work for environmental and other nonprofits for 11 years, most recently serving as a Senior Attorney with Legal Aid, before joining the DOJ.

**Mario Fernandez, Senior Counsel, OEHHA**

Mario Fernandez is Staff Counsel in the Office of Environmental Health Hazard Assessment (OEHHA). As an attorney in the Office of Chief Counsel, Mr. Fernandez advises the Director, Executive Office members, and OEHHA technical staff, on legal matters affecting the Office. Principal areas of practice include: developing and amending regulations; implementation of Proposition 65; and advising the Carcinogen Identification Committee, the Developmental and Reproductive Toxicant Committee, and the California Biomonitoring Scientific Guidance Panel.

## **John Hewitt**

**Senior Director, State Affairs, Consumer Brands Association**

John Hewitt is senior director, state affairs, at the Consumer Brands Association, based in California. Hewitt has managed state issues on behalf of CPG companies for nearly 10 years. In addition to state legislative issues, Hewitt has extensive experience in issues involving Proposition 65.

With a combination of association, political and agency experience, Hewitt has worked on many successful ballot initiatives, legislative and regulatory measures. In addition to his professional experience, he has sat on several non-profit boards and was an elected school board member for nearly 12 years.

Hewitt joined the Consumer Brands Association from the California Department of Food and Agriculture (CDFA), where he served as both special counsel to the secretary and as the agency's general counsel. At the department, Hewitt was responsible for complex litigation and regulatory matters as well as represented the department on interagency initiatives, such as the governor's drought task force and international climate change program.

Prior to CDFA Hewitt worked at the California Farm Bureau, where he played a key role in developing strategic water quality initiatives, including managing activities with local and state regulators as well as litigation development.

A native of Northern California, Hewitt graduated from Cal Poly in San Luis Obispo, with a bachelor's degree in agricultural business and a minor in water science. Hewitt also holds a juris doctor from the University of Pacific McGeorge School of Law and is admitted to practice law by the California Bar as well as the United States Supreme Court. He lives in Pleasant Grove, California, with his family.

## **Rachel Michelin**

**President, California Retailers Association**

Rachel Michelin is President of the California Retailers Association (CRA), the most significant voice representing the retail industry in California's public policy arena, at the State Capitol, in City Halls and with regulatory bodies across the state. Michelin oversees a diverse board and membership representing retail throughout the state and nation from small brick and mortar, to franchises to national retailers and on-line merchants.

Rachel has led associations for over 20 years with visionary leadership including strategic growth and engagement, increasing revenue, developing partnerships, statewide influence and public awareness. Rachel has demonstrated success through a strong bipartisan leadership network she has built with key influencers in the public and private sectors.

Rachel was reappointed by Governor Brown to the State Board of Optometry, where she has served since 2014. Prior to California Retailers, Michelin lead California Women Lead as Chief Executive Officer and Executive Director since 2002. She also served as Program and Policy Director for the California Elected Women's Association for Education and Research (CEWAER), Communications Director and District Director for members of the State Assembly.

Rachel is a Senior Fellow if the American Leadership Forum - Mountain Valley Chapter and received her bachelor's of arts from the California State University, Fullerton majoring in Communications - Journalism and minor in Political Science.

## **Eric Somers**

### **Principal, Lexington Law Group**

Eric S. Somers specializes in complex environmental and consumer public interest litigation on behalf of non-profit organizations, aggrieved individuals and public entities. Mr. Somers has significant experience enforcing California's landmark Right-to-Know law, Proposition 65, against Fortune 500 companies in the food, tobacco, pharmaceutical, chemical, cosmetics, water quality, costume jewelry, fashion accessory and retail industries. These cases have led to reformulation of millions of products designed for children to eliminate toxic chemicals such as lead, cadmium, arsenic and bisphenol A (BPA). Examples of consumer products that have been reformulated to remove these toxic chemicals include thermal paper used for retail receipts (BPA), children's playsets (arsenic treated wood), water filters (lead and arsenic), children's jewelry (lead and cadmium), fashion accessories such as handbags, belts and footwear (lead) and cookies and licorice made with molasses (lead). Many of these private enforcement actions have been co-litigated with the California Attorney General and other public enforcement agencies.

Mr. Somers also has substantial experience in false advertising and unfair competition matters. Mr. Somers recently led two class action lawsuits against major paint companies falsely claiming their paint products were free of volatile organic compounds (VOCs). He was lead counsel in a greenwashing case against a company making false environmental claims about disposable plastic bags. He also represented a group of plaintiffs in a successful case against major inkjet printer manufacturers regarding false and misleading print speed representations. Mr. Somers was Liaison Counsel in a complex coordinated proceeding alleging violations of the Truth In Lending Act by California automobile dealers that resulted in industry wide changes in advertising practices. In a class action case alleging violations of the Fair Debt Collection Practices Act against Chase Bank, Mr. Somers negotiated a significant class settlement. Mr. Somers founded the Lexington Law Group in 1996 and is a principal of the firm. He currently serves on the Advisory Board of the Prop. 65 Clearinghouse. Mr. Somers has been recognized as a California "Super Lawyer" every year since 2014.

When not working, Mr. Somers enjoys spending time with his wife and children, playing golf and skiing down large mountains.