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Japanese Litigation Update

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Quinn Emanuel Foundation to Donate Towards Japan Relief: On March 11th, Japan was hit by one of the largest earthquakes ever recorded. Rescue and recovery efforts have already begun and are expected to last for months, with numerous international organizations and governments offering assistance. During this time of crisis in Japan, the firm wishes to extend our thoughts and support to the victims of the earthquake and its aftermath. Our firm, through the Quinn Emanuel Foundation, will be accepting donations. Our goal is to focus on helping families, children, schools, and others that will continue to be impacted as the government tries to rebuild infrastructure. If you would like to contribute, please contact Jackie Toth at the Quinn Emanuel Foundation, jackietoth@quinnemanuel.com. The Foundation is a 501(c)(3). All contributions are fully tax deductible.

Public Prosecutor Arrested: In one of the most publicized scandals in the history of the Japanese Public Prosecutors Office, a former Chief Prosecutor of the Special Investigation Squad of the Osaka District Public Prosecutors Office, Tsunehiko Maeda, was arrested September 21, 2010. He has been charged with falsifying evidence in a case against a former official of the Ministry of Health, Labor and Welfare. In Japan, with its 99 percent conviction rate, the scandal has led to further questioning of prosecutorial conduct. Japanese prosecutors have greater ability to lead police-like investigations than their counterparts in many other countries.

In Mr. Maeda's case, the Prosecutor's Office has charged that the ministry official improperly allowed groups to take advantage of postal discounts reserved for the disabled. A key piece of allegedly incriminating evidence was a disk which purported to show a falsified certificate. Mr. Maeda is charged with altering the time stamp on the disk to make it better fit the prosecution's timeline. The official in the underlying case was acquitted September 10, 2010, and the Osaka District Public Prosecutors Office chose not to appeal the acquittal. To make matters worse for the Prosecutors Office, the former Chief and Deputy Chief of the Special Investigation Squad were arrested for attempting to cover up the prosecutor's wrongdoing.

Upon taking over the position of Public Prosecutor General, Haruo Kasama stated at a press conference that it would be his mission to ensure that prosecutors follow the laws they are charged with upholding.

First Judgment on Product Liability Suit Against Manufacturer of Konjac Jelly: On November 17, 2010, the Kobe District Court, Himeji Branch, dismissed a claim under the Japanese Product Liability Act for damages against a manufacturer of konjac jelly.

Konjac jelly, also called konnyaku, is refined from konjac, a starchy root, and hardened chemically. The jelly is a popular ingredient in numerous Japanese foods, but owing to its chewy nature, it is a choke risk. Although there have been calls for regulation, this was the first ruling on the liability of a jelly manufacturer under Japanese product liability laws.

The parent of a 1-year-old baby who choked on the jelly sought damages of about 62 million yen (approximately \$750,000). The court dismissed the claims, holding there was no design defect, defect in warnings, or inappropriate method of sale, and that the food had the requisite level of safety for its intended use. The parents have now appealed that ruling to the Osaka High Court.

Old Version of Bar Exam Abolished: The traditional version of the Japanese bar examination, which had been in use since 1949 and had achieved international attention for its level of difficulty, has been abolished.

Since 1999, Japan has sought to reform its judicial system to increase the number of legal professionals and encourage specialization. The reforms included the opening of law schools in Japan in 2006. Before the schools were opened, passing the bar exam was the only requirement for becoming an attorney. When the law schools were created, Japan introduced a new bar exam for law school graduates, administered side-by-side with traditional law school exam.

The pass rate on the traditional exam was very low, approximately 3 percent before 2005. Since 2006, when the new system was phased in, the newer exam has had pass rates of 25 percent to 48 percent. The Japanese government touted those

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higher rates to encourage prospective lawyers to enroll in law schools and take the new exam. It was too successful. The campaign to encourage enrollment in law schools resulted in a flood of students. The government has therefore capped the pass rate on the new examination meaning that once again there will be many failed attempts to become lawyers.

The traditional test has, however, been abolished. Only the persons who failed the oral aspect of the exam in 2010 are allowed to take it in 2011. As in the United States, individuals who wish to become attorneys will have to graduate from law school.