



ACI

American Conference Institute



SPECIAL FOCUS ON

FOOD ADVERTISING & MARKETING LAW

APRIL 11, 2019

See page 9-10 for details.

3rd Annual Advanced Summit on



FOOD LAW

Regulation, Compliance, and Litigation

April 9 – 10, 2019 | Millennium Knickerbocker Hotel | Chicago, IL

FEATURED IN-HOUSE COUNSEL FROM:

Bonduelle Fresh Americas	Nestlé
Campbell Soup Company	Ocean Spray Cranberries
Garden of Life	OEHHA
Herbalife	Phusion Projects
HP Hood	Sargento Foods
Jelly Belly Candy Company	The Hershey Company
KIND Snacks	The J.M. Smucker Company
Lancaster Colony Corporation	Thai Union North America
Legal Sea Foods	TreeHouse Foods

HEAR FROM SENIOR OFFICIALS FROM:

FDA	USDA
FTC	NAD

DISTINGUISHED CO-CHAIRS:



Andrea M. Bruce
*Senior Counsel,
Regulatory, Food Safety
& Quality*
The Hershey Company



Monica Johnson
General Counsel
Bonduelle Americas

> Special Keynote Address by the **Council for Responsible Nutrition**

THE 2019 CONFERENCE WILL PROVIDE THE LATEST INSIGHTS ON:

- > **Balancing** the business **priorities** of the food industry with **regulatory requirements**
- > **Anticipating** the latest requirements for the **nutrition facts panel**
- > **Preparing** for the implementation of the **GMO Content Disclosure Rules**
- > **Steering** clear of **problematic claims**, as explained by the **FTC** and **NAD**
- > **Addressing** new **Prop 65** challenges
- > **Developing** strategies for **supply chain risk** minimization
- > **Managing** recalls while protecting your company's reputation
- > **Exploring** **hemp** and **cannabis-related** ingredient controversies



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Business Information in a Global Context

Join Us for the Food Industry's Most Comprehensive Legal and Regulatory Conference

ACI's **Advanced Forum on Food Law** returns to Chicago this spring with its most comprehensive program to date!

Learn from the "Who's Who" of the Food Law Bar

We have designed this year's program to provide solutions for and devise actionable and sophisticated strategies to address the industry's most pressing challenges.

Attend this event and benefit from the insights of our In-House Counsel Think-Tank as they discuss and analyze:

- FDA and USDA 's regulatory priorities
- Strategies for labeling and tackling new labeling regulations
- Best practices for counseling sales and marketing teams
- Recent Prop 65 activity
- The expected outlook for the post-2020 regulatory implementation deadlines

Additionally, our faculty will help you devise a plan of attack for avoiding and resolving class actions quickly and effectively.

WHO WILL YOU MEET?

➤ Food and Beverage Industry:

- In-House Counsel, with responsibilities for corporate law, litigation, regulation, advertising, and promotion
- Compliance and Government Affairs Officers and Executives
- Safety and Quality Officers and Managers
- Nutrition and Labeling Directors and Executives
- Regulatory Affairs Officers and Executives

➤ Law Firm Attorneys for Food and Beverage Industry whose practices focus on:

- FDA/Food law
- Advertising and Promotion
- Litigation

AGENDA AT-A-GLANCE

PRE-CONFERENCE WORKSHOP

Tuesday, April 9, 2019

7:30 – 10:00 (Registration begins at 7am)

Breakfast Briefing on the Jurisdiction, Responsibilities, and Interplay of Key Agencies Involved in Food Regulation

MAIN CONFERENCE DAY ONE

Tuesday, April 9, 2019

10:15 | Co-Chairs' Opening Remarks

10:30

In-House Counsel Think-Tank on Balancing the Business Priorities of the Food Industry with Key Regulatory Requirements

11:30

Practical Guidance on the Present State of Food Labeling: Examining the Status of Nutrition Facts Panel Requirements

12:30 | Networking Luncheon

1:30

Is it Natural? Is it Healthy? Interpreting the FDA's Silence on the Definition of These Terms

2:30

Preparing for the Implementation of the GMO Content Disclosure Rules: Who Needs to Disclose and Why?

3:15 | Afternoon Refreshment Break

3:30

What Exactly Can You Say?: Steering Clear of Problematic Claims – A Townhall with the FTC and NAD

4:15

Assessing Current Class Action Challenges and Potential Ways for the Industry to Thwart Them

5:15

Conference Adjourns to Day Two

MAIN CONFERENCE DAY TWO

Wednesday, April 10, 2019

7:15 | Continental Breakfast

8:00

Co-Chairs' Remarks and Recap of Day One

8:15

Prop 65: Successfully Moving Forward in the Face of Ever-Increasing Challenges to Food Manufacturers

9:15

Keeping the Food Supply Safe: Developing Strategies for Supply Chain Risk Minimization

10:15 | Morning Coffee Break

10:30

Containing Imported Food Contaminants to Protect Supply Chain Integrity

11:15

What Lies Ahead for Hemp and Cannabis-Related Ingredients

12:00 | Networking Lunch

1:00

Allergens 360: What You Need to Know from Labeling to Litigation

1:45

CRN Keynote Address

2:15

Finalizing FSMA Implementation: Assessing What Has Worked, What Has Not, and What's Coming Next

3:15 | Afternoon Refreshment Break

3:30

Effectively Managing Recalls While Preserving a Company's Reputation

4:30

Innovations in Food Technology: Examining How Innovative Food Products Are Evaluated, Approved, Labeled, and Named

5:15

Main Conference Adjourns

FOOD ADVERTISING AND MARKETING MASTER SYMPOSIUM

Thursday, April 11, 2019

7:30 | Registration and Continental Breakfast

8:30

Co-Chair's Opening Remarks

8:45

Working with Marketing: Strengthening Cooperation and Implementing Effective Internal Processes in the Food Industry to Establish a Comprehensive Claim Substantiation Program

9:45

Managing Social Media Marketing Campaigns Related to Food Products

10:45 | Networking Coffee Break

11:00

Ensuring the Proper Use of Testimonials and Ambassador Programs for the Food Industry

12:00 | Networking Luncheon

1:00

Practical Guidance for the Food Industry for Avoiding False and Misleading Advertising

2:00

Establishing Guidelines for Substantiating Sensory and Consumer Preference Claims

3:00 | Afternoon Coffee Break

3:15

Substantiating Health-Related Claims for Food Products

4:15

Special Considerations for the Food Industry to Keep in Mind When Advertising to Children

5:00 | Conference Ends



DISTINGUISHED FACULTY LIST

Co-Chairs:

Andrea M. Bruce

Sr. Counsel, Regulatory, Food Safety & Quality
The Hershey Company

Monica Johnson

General Counsel
Bonduelle Americas

Ebru Başaran-Shull

Principal, Compliance and Government Affairs
Sargento Foods Inc. (Plymouth, WI)

David T. Biderman

Partner
Perkins Coie LLP (Los Angeles, CA)

Jeffrey B. Brams

GC, & VP R&D, Quality, Regulatory
Garden of Life, LLC
(Palm Beach Gardens, FL)

Sarah L. Brew

Partner
Faegre Baker Daniels LLP
(Minneapolis, MN)

Andrea M. Bruce

Sr. Counsel, Regulatory, Food Safety & Quality
The Hershey Company (Hershey, PA)

Jeffrey W. Canavan

Deputy Director
Labeling and Program Delivery Staff
Food Safety and Inspection Service, USDA

Hannah Y. Chanoine

Partner
O'Melveny & Myers LLP

Jonathan M. Cohen

Partner
K&L Gates LLP (Washington, DC)

Matthew R. Dornauer

General Counsel
Phusion Projects, LLC (Chicago, IL)

Kat Dunnigan

Senior Staff Attorney
National Advertising Division (NAD)
Advertising Self-Regulatory Council (ASRC)
(New York, NY)

Daniel R. Dwyer

Partner
Kleinfeld, Kaplan And Becker, LLP
(Washington, DC)

Adam Ekonomon

*Vice President and Deputy General Counsel,
Marketing and Regulatory*
The J.M. Smucker Company (Orrville, OH)

Richard Fama

Vice Chair, General Litigation
Cozen O'Connor (New York, NY)

Elizabeth B. Fawell

Partner
Hogan Lovells US LLP (Washington, DC)

Jeanine Flaherty

*Executive Director of Food Safety,
Quality & Regulatory Compliance*
Legal Sea Foods, LLC (Boston, MA)

Alysse M. Giallourakis

Senior Corporate Counsel, Advertising
The J.M. Smucker Company (Orrville, OH)

Sarah M. Goldstein

Staff Attorney
Sidley Austin LLP (New York, NY)

Jason W. Gordon

Partner
Reed Smith LLP (Chicago, IL)

Eric F. Greenberg

Eric F. Greenberg, P.C. (Chicago, IL)

Miriam Guggenheim

Partner
Covington & Burling LLP (Washington, DC)

Lindsey K. Heinz

Partner
Shook, Hardy & Bacon L.L.P. (Kansas City, MO)

Monica Johnson

General Counsel
Bonduelle Americas (Los Angeles, CA)

Livia M. Kiser

Partner
King & Spalding (Chicago, IL)

Riëtte van Laack

Director
Hyman, Phelps, & McNamara, P.C (Washington, DC)

Stanley W. Landfair

Partner
Dentons US LLP (San Francisco, CA)

Danielle B. Lemack

Assistant General Counsel
HP Hood LLC (Lynnfield, MA)

Mark Leonard

General Counsel
Jelly Belly Candy Company (Fairfield, CA)

Ronald J. Levine

General Counsel
Herrick, Feinstein LLP (Newark, NJ)

Douglas 'Duffy' MacKay (invited)

*Senior Vice President,
Scientific and Regulatory Affairs*
Council for Responsible Nutrition (Washington, DC)

Nadia Makki

Senior Counsel
KIND Snacks (New York, NY)

David G. Mallen

Co-Chair, Advertising Disputes
Loeb & Loeb LLP (New York, NY)

Beatrice Martinet

Partner
Sideman & Bancroft LLP (San Francisco, CA)

Miriam Maxwell

Sr. Principal Regulatory Scientist
Ocean Spray Cranberries Inc. (Lakeville, MA)

Justin Mervis

*Executive Vice President,
General Counsel & Strategy*
KIND Snacks (New York, NY)

Carol J. Monahan Cummings

Chief Counsel
Office of Environmental Health Hazard
Assessment (Sacramento, CA)

Brandon W. Neuschafer

Partner
Bryan Cave Leighton Paisner LLP
(St. Louis, MO)

Paul C. Nightingale

Senior Vice President & General Counsel
HP Hood LLC (Lynnfield, MA)

Jo E. Osborn

Vice President and Assistant General Counsel
TreeHouse Foods, Inc. (Oak Brook, IL)

David O'Toole

Senior Staff Attorney
Federal Trade Commission (Wilmette, IL)

Raqiyah Pippins

Counsel
Arnold & Porter Kaye Scholer LLP
(Washington, DC)

Meredith Quinn Olearchik

*Vice President and Associate General Counsel –
Intellectual Property, Marketing and Food Law*
Campbell Soup Company (Camden, NJ)

Christianna M.L. Reed

*Vice President and General Counsel,
Legal and Risk Management*
Thai Union North America (El Segundo, CA)

Sarah Roller

Partner
Kelley Drye & Warren LLP (Washington, DC)

Ronald Y. Rothstein

Partner
Winston & Strawn LLP (Chicago, IL)

Rick L. Shackelford

Shareholder
Greenberg Traurig LLP (Los Angeles, CA)

Matthew Shurte

General Counsel
Lancaster Colony Corporation
(Westerville, OH)

Cameron B. Smith

Senior Director, Counsel
Herbalife Nutrition (Los Angeles, CA)

Angela M. Spivey

Partner
Alston & Bird (Atlanta, GA)

Douglas Stearn

Deputy Director for Regulatory Affairs
Center for Food Safety and Applied Nutrition
FDA (Washington, DC)

Sarah A. Sunday

Managing Counsel, Food Law
Nestle USA (Arlington, VA)

R. Trent Taylor

Partner
McGuireWoods (Richmond, VA)

Suzie Trigg

Partner
Haynes and Boone, LLP (Dallas, TX)

PRE-CONFERENCE WORKSHOP

Tuesday, April 9, 2019

7:30 am – 10:00 am (Registration begins at 7:00 am)

Breakfast Briefing on the Jurisdiction, Responsibilities, and Interplay of Key Agencies Involved in Food Regulation

Riëtte van Laack

Director

Hyman, Phelps, & McNamara, P.C (Washington, DC)

Eric F. Greenberg

Eric F. Greenberg, P.C. (Chicago, IL)

In today's modern regulatory environment, knowing exactly which agencies are involved, understanding how far their jurisdiction extends, and identifying how they work together are critical competencies for attorneys and regulatory affairs managers practicing in the area of food law. We will also examine preemption challenges with state, federal, and local authorities. Topics of discussion will include:

- Deciphering the organizational structure of each agency:
 - » DHHS: FDA-CFSAN (Center for Food Safety and Applied Nutrition); ODSP (Office of Dietary Supplement Programs); CDC (Center for Disease Control)
 - » USDA: FSIS (Food Safety Inspection Service); AMS (Agriculture Marketing Service)
 - » FTC – Bureau of Consumer Protection
 - » State and local health agencies
- Understanding the responsibilities and jurisdiction of each agency and local health agencies
 - » Gaining clarity on how their responsibilities and jurisdiction intersect and overlap
 - » Examining their enforcement authority
- Addressing preemption challenges with state and local authorities as they apply to the food industry
 - » Understanding when federal laws preempt state regulation
 - » Can state authorities exercise their authority despite preemption?
 - » If federal enforcement has been declined, can state and local authorities fill the gap?

MAIN CONFERENCE DAY ONE

Tuesday, April 9, 2019

10:15 | Co-Chairs' Opening Remarks

Andrea M. Bruce

Sr. Counsel, Regulatory, Food Safety & Quality

The Hershey Company (Hershey, PA)

Monica Johnson

General Counsel

Bonduelle Americas (Los Angeles, CA)

10:30

In-House Counsel Think-Tank on Balancing the Business Priorities of the Food Industry with Key Regulatory Requirements

Jeffrey B. Brams

GC, & VP R&D, Quality, Regulatory

Garden of Life, LLC (Palm Beach Gardens, FL)

Monica Johnson

General Counsel

Bonduelle Americas (Los Angeles, CA)

Paul C. Nightingale

Senior Vice President & General Counsel

HP Hood LLC (Lynnfield, MA)

- Balancing the need to be innovative and in-step with consumer preferences with legal and regulatory requirements
- Preparing for a post-January 2020 world: what is the expected outlook once these regulations go live
- Understanding the state of the union of FDA's regulatory priorities given the current administration's deregulatory stance
- Devising best practices for counseling sales and marketing teams when responding to consumer requests
 - » Advising regulatory teams on claims challenges

11:30

Practical Guidance on the Present State of Food Labeling: Examining the Status of the Nutrition Facts Panel Requirements

Jeffrey W. Canavan

Deputy Director

Labeling and Program Delivery Staff

Food Safety and Inspection Service, USDA

Sarah Roller

Partner

Kelley Drye & Warren LLP (Washington, DC)





- Deciphering the current status of labeling requirements
 - » Assessing compliance with the FDA's nutrition facts panel
 - » What do the enforcement initiatives look like?
 - » On what areas is FDA expected to focus?
- Examining state and local initiatives on labeling sugar, sodium, antibiotics, hormones, and pesticides
- Interpreting new rules on menu labeling, cultured food products, and the use of dairy names for non-dairy products
- Understanding clean labeling
- What claims are currently high-risk claims and what can be done from a labeling perspective to reduce them?

12:30 | Networking Luncheon

1:30

Is it Natural? Is it Healthy? Interpreting the FDA's Silence on the Definition of These Terms

Justin Mervis

Executive Vice President, General Counsel & Strategy
KIND Snacks (New York, NY)

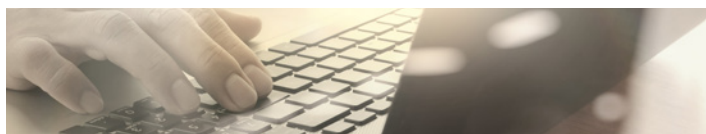
Ronald Y. Rothstein

Partner
Winston & Strawn LLP (Chicago, IL)

Sarah A. Sunday

Managing Counsel, Food Law
Nestle USA (Arlington, VA)

- Assessing the current status of FDA's defining "natural," "healthy" and other similar terms
- Understanding the repercussions for the industry if FDA does not define these terms soon
- In the interim, should companies steer clear of these terms?
- Examining cases involving:
 - » "natural" "all natural," "healthy"
 - » sugar content and "no added sugar"
 - » "wholesome," and "organic"
- Latest on the use of terms "real" and "simple"



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2:30

Preparing for the Implementation of the GMO Content Disclosure Rules: Who Needs to Disclose and Why?

Andrea M. Bruce

Sr. Counsel, Regulatory, Food Safety & Quality
The Hershey Company (Hershey, PA)

Brandon W. Neuschafer

Partner
Bryan Cave Leighton Paisner LLP (St. Louis, MO)

- Examining the current state of the rule
- Identifying implementation challenges that food companies have been encountering
- What can industry expect with respect to FDA's anticipated view of the regulation?
- Assessing which circumstances require GMO disclosure under the rule
 - » E.g., If GMO ingredients do not appear in a final product after processing, does a manufacturer need to disclose their prior presence?

3:15 | Afternoon Refreshment Break

3:30

What Exactly Can You Say?: Steering Clear of Problematic Claims – A Townhall with the FTC and NAD

Kat Dunnigan

Senior Staff Attorney
National Advertising Division (NAD)
Advertising Self-Regulatory Council (ASRC) (New York, NY)

David O'Toole

Senior Staff Attorney
Federal Trade Commission (Wilmette, IL)

Hear directly from the FTC and NAD on how they evaluate various claims in food advertisements and criteria they use to make these assessments. Topics of discussion will include:

- Examining the types of claims that have recently been challenged
- Lessons learned from recent regulatory actions
- Forecasting the likely direction the new administration may take on substantiation

4:15

Assessing Current Class Action Challenges and Potential Ways for the Industry to Thwart Them

Hannah Y. Chanoine

Partner

O'Melveny & Myers LLP

Mark Leonard

General Counsel

Jelly Belly Candy Company (Fairfield, CA)

R. Trent Taylor

Partner

McGuireWoods (Richmond, VA)

- Examining developments with the latest claims involving fumaric and malic acids
- Slack fill": What is it, how to defend against "slack fill" class actions and safeguard a product from slack fill challenges
- Analyzing the recent onslaught of pet food claims: could this be a new avenue for litigation?
- What do manufacturers need to understand about potential liabilities regarding healthy "auras" surrounding their products?
- What to do from a regulatory perspective to avoid litigation?
- Developing best strategies for speedy resolution, if a class action law suit arises

5:15

Conference Adjourns to Day Two

MAIN CONFERENCE DAY TWO

Wednesday, April 10, 2019

7:15 | Continental Breakfast

8:00

Co-Chairs' Remarks and Recap of Day One

8:15

Prop 65: Successfully Moving Forward in the Face of Ever-Increasing Challenges to Food Manufacturers

David T. Biderman

Partner

Perkins Coie LLP (Los Angeles, CA)

Stanley W. Landfair

Partner

Dentons US LLP (San Francisco, CA)

Carol J. Monahan Cummings

Chief Counsel

Office of Environmental Health Hazard Assessment (Sacramento, CA)

- Examining the latest overhaul of Prop 65 and its safe harbors as well as their potential effect on the food industry
- Exploring changes in the maximum daily levels
- Reviewing new chemical listings
 - » Addressing the practicalities of setting up testing and compliance programs in view of these numerous listings
 - » What to focus on and how to communicate these efforts to customers and suppliers?
- Devising safe harbor strategies in view of recent amendments
 - » How should products now be labeled?
- Developing protocols for handling 60-day notice
- Addressing indemnification demands from retailers
- Understanding how developments in California are impacting the rest of the country and fueling litigation
 - » How does Prop 65 align with FDA policies
- What is the Prop 65 litigation risk with respect to glyphosate at this time?
 - » Should products be tested for this chemical at this time
- Weighing defense options against recall strategies
- Is there any way to avoid being targeted – i.e., can manufacturers ensure that no trace amounts of Prop 65-listed chemicals exist in their food products?

9:15

Keeping the Food Supply Safe: Developing Strategies for Supply Chain Risk Minimization

Jonathan M. Cohen

Partner

K&L Gates LLP (Washington, DC)

Jeanine Flaherty

Executive Director of Food Safety, Quality & Regulatory Compliance

Legal Sea Foods, LLC (Boston, MA)

Angela M. Spivey

Partner

Alston & Bird (Atlanta, GA)

- Developing a sound risk minimization plan to ensure supply chain integrity
- Understanding the importance of including mitigation protocols into your plan blueprint
- Addressing recalls within the parameters of risk preparedness
 - » What's the scope of the recall?
 - » Handling challenges surrounding anticipated claims
- Managing supply chain mishaps without jeopardizing relationships with suppliers
 - » Recovering costs incurred as a result of implementing recalls
 - » Paying for claims
 - » Assessing brand damage
 - » Estimating lost profits



- Addressing challenges relative to products that cannot be sold as a result of a recall
- Suggested ways to protect yourself contractually and through insurance
- Recovering from insurance for losses and liabilities without disrupting the supply chain

10:15 | Morning Coffee Break

10:30

Containing Imported Food Contaminants to Protect Supply Chain Integrity

Christianna M.L. Reed

Vice President and General Counsel, Legal and Risk Management
Thai Union North America (El Segundo, CA)

Suzie Trigg

Partner

Haynes and Boone, LLP (Dallas, TX)

- Addressing the problem of pesticides and other contaminants that regularly find their way into the supply chain through imported products
- How does a producer protect against this and when needed, defend against it?
- Understanding when supplier verification of “no contaminants” is not enough
- Examining FDA’s standards for evaluating imports
- Reviewing FDA’s protocol for when a contaminant is found in food
- What do manufacturers need to know about import compliance relative to the Foreign Supplier Verification Program?
- Establishing an effective Voluntary Qualified Importer Program

11:15

What Lies Ahead for Hemp and Cannabis-Related Ingredients

Daniel R. Dwyer

Partner

Kleinfeld, Kaplan and Becker, LLP (Washington, DC)

Cameron B. Smith

Senior Director, Counsel

Herbalife Nutrition (Los Angeles, CA)

- Examining the latest developments with the emergence of state cannabis laws
- Exploring developments under the new Farm Bill and whether cannabis-derived ingredients could be used in foods
- Analyzing anticipated state and federal issues
- What is the distinction between hemp, industrial hemp and CBD oil?
- At this time, what hemp or cannabis-related ingredients can be placed into foods legally?
- Evaluating practicalities and liabilities with respect to paying vendors for ingredients

12:00 | Networking Lunch

1:00

Allergens 360: What You Need to Know from Labeling to Litigation

Sarah L. Brew

Partner

Faegre Baker Daniels LLP (Minneapolis, MN)

- Complying with the Food Allergen Labeling and Consumer Protection Act (FALCPA): what needs to be on the label and where?
- Voluntary allergen disclosures and statements: regulatory and liability implications
- Allergen controls and CGMP in manufacturing
- Recalls: when does an undisclosed allergen trigger a recall?
- Emerging allergen regulatory and liability issues

1:45

CRN Keynote Address

Douglas ‘Duffy’ MacKay (invited)

Senior Vice President, Scientific and Regulatory Affairs

Council for Responsible Nutrition (Washington, DC)

2:15

Finalizing FSMA Implementation: Assessing What Has Worked, What Has Not, and What’s Coming Next

Elizabeth B. Fawell

Partner

Hogan Lovells US LLP (Washington, DC)

Sarah M. Goldstein

Staff Attorney

Sidley Austin LLP (New York, NY)

Douglas Stearn

Deputy Director for Regulatory Affairs

Center for Food Safety and Applied Nutrition

FDA (Washington, DC)

- Examining the status of the implementation of each major rule and remaining challenges
- Finalizing manufacturers’ intentional adulteration plans: implementing the final FSMA rule on intentional adulteration
- Exploring the latest developments with FSMA inspections
 - » Examples of lessons learned during inspections
- Developing real-time strategies for responding to investigators
- Handling inspections by state and local health departments

3:15 | Afternoon Refreshment Break

Media Partner:



3:30

Effectively Managing Recalls While Preserving a Company's Reputation

Miriam Guggenheim

Partner

Covington & Burling LLP (Washington, DC)

Meredith Quinn Olearchik

Vice President and Associate General Counsel – Intellectual Property, Marketing and Food Law

Campbell Soup Company (Camden, NJ)

Matthew Shurte

General Counsel

Lancaster Colony Corporation (Westerville, OH)

- Ensuring that manufacturers do not ignore the warning signs or recall too quickly
- Managing a response to FDA food safety investigation
- How to effectively cooperate during investigations
- Developing best strategies for speaking with the FDA
 - » What is the best timing for speaking with the FDA?
- How does FDA view a company's decision-making process on product recalls?
- How does FDA decide whether or not to investigate and what test data they are using to get a sense of what the risks are?
- How to determine what microbiological tests should be performed?
- If after performing a test there is a positive result, is a recall required immediately or should a producer try to correct the issue first?
- Working with outside experts and PR firms while maintaining attorney-client privilege

4:30

Innovations in Food Technology: Examining How Innovative Food Products Are Evaluated, Approved, Labeled, and Named

Ronald J. Levine

General Counsel

Herrick, Feinstein LLP (Newark, NJ)

Miriam Maxwell

Sr. Principal Regulatory Scientist

Ocean Spray Cranberries Inc. (Lakeville, MA)

- Analysis of how novel foods are developed, brought to regulatory process, and eventually sold
- Exploring the latest developments with test-tube-produced meat products and plant-based foods
- Assessing the viability of 3D printing of food
- Evaluating liabilities associated with the testing and production of marijuana edibles
- Understanding the use of block chain for traceability

5:15

Main Conference Adjourns



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ACI has a dedicated team which processes requests for state approval. Please note that event accreditation varies by state and ACI will make every effort to process your request.

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Having a thorough understanding of substantiating food-related claims is of critical importance to industry attorneys and regulatory executives. Additionally, collaborating with marketing departments efficiently as well as developing effective social media campaigns and ambassador programs are all essential tools for effective and compliant marketing and promotion.

Our comprehensive sessions on food advertising and marketing will provide an in-depth analysis of what counsel need to be aware of as they review product claims as well as strategies to employ in using consumers' testimonials and developing sound social media campaigns.

7:30 | Registration and Continental Breakfast

8:30

Co-Chair's Opening Remarks

Danielle B. Lemack
Assistant General Counsel
HP Hood LLC (Lynnfield, MA)

8:45

Working with Marketing: Strengthening Cooperation and Implementing Effective Internal Processes in the Food Industry to Establish a Comprehensive Claim Substantiation Program

Ebru Başaran-Shull
Principal, Compliance and Government Affairs
Sargento Foods Inc. (Plymouth, WI)

Livia M. Kiser
Partner
King & Spalding (Chicago, IL)

Jo E. Osborn
Vice President and Assistant General Counsel
TreeHouse Foods, Inc. (Oak Brook, IL)

- Developing an early cross-communication strategy between R&D, Marketing, and Legal departments
- Building a team: Standardizing a process of claim substantiation by committee that brings together different employee functions
- Communicating effectively with claims team members so that they understand the risks of pursuing particular claims
- Suggesting adjustments to claims language to reach the joint goal of developing a creative and a compliant claim
- Benchmarking best practices on claim development
 - » Is there a suggested software that can help with tracking changes made for each claim?
 - » Should every piece of marketing material be reviewed?
 - » How often should legal department be involved? Should law department look at a claim first or last? Should a meeting with legal be on a monthly basis or more often? Should this be a regulatory function instead?
 - » Should there be a claims counsel who should approve everything?

9:45

Managing Social Media Marketing Campaigns Related to Food Products

Matthew R. Dornauer
General Counsel
Phusion Projects, LLC
(Chicago, IL)

Lindsey K. Heinz
Partner
Shook, Hardy & Bacon L.L.P.
(Kansas City, MO)

- Drafting a comprehensive and actionable social media policy for bloggers, employees and affiliates
- How should a company negotiate and guide a business partner to manage social media campaigns?
- Examining the consequences of when consumers retweet information on a product?
- How does blogging on a product by a customer compare to TV ads?
- Exploring potential liabilities: What should manufacturers understand about the use of websites as extensions of marketing campaigns?
- Establishing protocols for the appropriate use of native advertising

10:45 | Networking Coffee Break

11:00

Ensuring the Proper Use of Testimonials and Ambassador Programs for the Food Industry

Alysse M. Giallourakis
Senior Corporate Counsel, Advertising
The J.M. Smucker Company
(Orville, OH)

Jason W. Gordon
Partner
Reed Smith LLP
(Chicago, IL)

- Developing best strategies for engaging and contracting with influencers
- Ensuring that the influencers' content is compliant with FTC guidelines
- How to make a disclosure of endorsement on Facebook, Twitter, and other popular social media forums?
- Addressing challenges associated with individuals who are part of a company's ambassador program
 - » What concerns does FTC have with regards to ambassador programs?

- Developing strategies for monitoring correctly food bloggers and third-party retailers who want to market a manufacturer's food product
- Ensuring appropriate use of consumer-generated content
 - » E.g., consumer posting a picture of eating a particular product on social media

12:00 | Networking Luncheon

1:00

Practical Guidance for the Food Industry for Avoiding False and Misleading Advertising

Richard Fama

Vice Chair, General Litigation

Cozen O'Connor (New York, NY)

Beatrice Martinet

Partner

Sideman & Bancroft LLP (San Francisco, CA)

Danielle B. Lemack

Assistant General Counsel

HP Hood LLC (Lynnfield, MA)

- In the face of uncertainty around exact statements that can be made, what are the best strategies to avoid misleading advertising?
- Complying with disclosure requirements in order to not mislead or deceive
- Evaluating how high-profile ingredients (e.g., vitamins, proteins, fruits, and vegetables) can be emphasized effectively as opposed to/in addition to predominant ones
- Implementing effective ways for handling added sugar claims (e.g., no added sugar, no high-fructose corn syrup)
- Developing best strategies for making health-related claims (e.g., natural, healthy, organic, non-GMO)

2:00

Establishing Guidelines for Substantiating Sensory and Consumer Preference Claims

David G. Mallen

Co-Chair, Advertising Disputes

Loeb & Loeb LLP (New York, NY)

Rick L. Shackelford

Shareholder

Greenberg Traurig LLP (Los Angeles, CA)

- Developing appropriate testing methods with respect to sensory perceptions relating to food
- Examining the science behind testing
- Developing proof for food fortification
- Bridging the gap between legal and scientific testing requirements

3:00 | Afternoon Coffee Break

3:15

Substantiating Health-Related Claims for Food Products

Adam Ekonomon

Vice President and Deputy General Counsel, Marketing and Regulatory
The J.M. Smucker Company (Orrville, OH)

Nadia Makki

Senior Counsel

KIND Snacks (New York, NY)

- Review of FDA regulated claims
- Assessing structure/function vs. disease claim determinations
- Understanding how to properly use studies (number; type)
- Implications of *FTC v. POM Wonderful* and *US v. Bayer*
- Developing best practices to use study results to mitigate potential exposure to litigation surrounding alleged misleading claims

4:15

Special Considerations for the Food Industry to Keep in Mind When Advertising to Children

Raqiyah Pippins

Counsel

Arnold & Porter Kaye Scholer LLP (Washington, DC)

- Ensuring that the parent is the focus of the ad and related claims as opposed to the child
- Properly demonstrating a product to a child for the purposes of claims substantiation
- Making sure that the necessary disclosures have been utilized when communicating with children-audience
- Suggested strategies for ensuring endorsers meet the necessary substantiation requirements for advertising to children
- Examining potential penalties in cases of alleged misrepresentations
- Examples of recent advertisements that have been under scrutiny

5:00 | Conference Ends

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FOOD ADVERTISING & MARKETING LAW
Master Symposium

PRE-CONFERENCE WORKSHOP: Tuesday, April 9, 2019

Breakfast Briefing on the Jurisdiction,
Responsibilities, and Interplay of Key Agencies
Involved in Food Regulation

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