

FOOD, AG AND NUTRITION

OVERVIEW

Our Food, Agriculture and Nutrition Team defends a wide variety of consumer class action and mass tort claims related to agricultural products including pesticides and genetically modified seeds, foods, beverages, dietary supplements and cosmetic products. We handle lawsuits directed to various aspects of these products, including disputes over product labeling, ingredients, food-borne illnesses, product defects, processing, packaging, advertising and sales practices. Our clients include food, beverage, and dietary supplement manufacturers' national and international retailers, national restaurant chains, and international agriculture businesses.

Our team regularly handles a wide array of high-stakes mass tort claims and class actions alleging that agricultural products and well-known pesticides caused personal injury as well as allegations that pesticides moved off-target and caused wide-spread property and crop damage.

Our nationwide team has defended myriad false-labelling class action claims against manufacturers of health and energy products, frozen vegetables and other frozen food products, health beverages, dietary supplements, baby bottles, pet treats, natural spring water, nutritional supplements, soft drinks, alcohol, pet food, natural repellants and skin care products. We have defended claims attacking a variety of labels, such as "all natural," "a good source" of various nutrients, "GMO-free" and "hormone-free." These claims involved alleged violations of various state consumer protection laws, UDAP laws or federal statutes and regulations, such as the Nutrition Labeling and Education Act, the Federal Food, Drug, and Cosmetic Act, and FDA and USDA regulations.

We also counsel clients on the related risk management and business operations issues, as well as the recovery for business interruption, brand damage and other losses related to slack-fill claims, food contamination outbreaks, and product or processing defects against others in the food/product distribution chain.

MEET THE TEAM



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EXPERIENCE

- Co-lead of the legal briefing and appellate team for the virtual firm handling all cases alleging that Roundup causes cancer. This role includes summary judgment briefing, *Daubert/Sargon* expert motions, motions in limine, jury instructions, non-suit, JNOV and new trial briefing in the trial court, as well as appellate briefing in the Court of Appeal. We served as appellate counsel in all three cases that have gone to trial to date. Our team led the post-trial briefing for the *Johnson* (first case) and *Pilliod* (third case) trials. We personally argued post-trial motions resulting in the reduction in approximately \$2.2 billion in damages.
- Served as co-national counsel for Monsanto in MDL proceeding in Missouri involving allegations that Monsanto, BASF and DuPont's new low-volatility dicamba herbicides moved off-target and caused damage to neighboring crops. We also served as co-national counsel at trial and on appeal in the Bader Farms case, the first individual dicamba property damage case to go to trial.
- Defended two dietary supplement manufacturers and retailers in several putative nationwide class actions alleging mislabeling of glucosamine sulfate dietary supplements under the consumer protection laws of various states.
- Represented a food company that discovered its product had been contaminated by a third party prior to sale. Successfully developed and executed strategy to prevent any health hazards, mitigate risk, investigate causation and scope, comply with regulatory requirements

and provide appropriate notifications. Convinced insurance company to pay for multimillion dollar loss.

- Defended client (NBTY, Inc.) in litigation regarding the sale of herbal supplements. Plaintiff alleged fraudulent labeling of nutritional supplements.
- Defending private label food manufacturer in class action litigation alleging violations of California Unfair Competition and California Consumers Legal Remedies Act.
- Represented a manufacturer of coconut water as defendant in a class action lawsuit alleging unfair competition, false advertising, unjust enrichment, fraud and violations of the CLRA. Negotiated a highly favorable pre-litigation settlement.
- Defending Pictsweet Farms Vegetables Roasting Sweet Potatoes in Prop 65 lead claim.
- Successfully represented Monsanto in an action challenging the statute governing appointments to the Arkansas State Plant Board. We prevailed in the trial court in having the statute governing appointments to the Board declared unconstitutional, and also successfully defended the trial court's decision in the Arkansas Supreme Court.
- Defended MilliporeSigma and its affiliated companies since 2008 in personal injury/tort cases often called "butter flavor" or "popcorn lung" cases. These are typically state court cases filed mainly by employees at flavoring companies who claim that inhalation of diacetyl used to make butter flavoring for popcorn caused severe lung impairment, including the fatal disease bronchiolitis obliterans.

RELATED INSIGHTS

Insights

Jun 02, 2023

Paris Antitrust & Distribution Newsletter - June 2023

The following articles present a brief summary of topics of interest specific to French law which apply to French and foreign companies in the food, beverage and agriculture sector, when products are marketed in France. These articles provide a broad overview of some of the key issues that may arise and do not constitute legal advice. The points addressed in these articles may be subject to further analysis by BCLP teams.