



Food and Beverage

Every segment along the food supply chain faces an increasingly complex economic and regulatory landscape. Almost daily announcements of food recalls as well as the implementation of the Food Safety and Modernization Act have wide-ranging effects on entities and individuals involved in the food and beverage industry, impacting suppliers, producers, consumers and insurers. An interdisciplinary group of White and Williams lawyers, consisting of transactional, intellectual property and litigation attorneys, partner with their clients along the food and beverage supply chain, as well as their insurers, to find effective business and legal solutions for labeling, food and beverage safety and recall issues, and to preempt problems before they arise. Consequently, our lawyers have experience counseling and advising companies of various sizes on a wide variety of issues, including supply contract, crisis management, recalls, labeling and regulatory compliance issues.

White and Williams' lawyers recognize the importance of moving quickly to recall and, as appropriate, destroy the contaminated, adulterated or misbranded food or beverage products. Our team of experienced lawyers works closely with claims professionals, insureds and forensic experts to analyze and minimize the costs involved in an insured's recall efforts. More importantly, our lawyers work with our insurance and food and beverage industry clients to maximize the recovery of direct and subrogation claims against the responsible suppliers, vendors or other parties. In conjunction with the pursuit of the responsible parties, our lawyers negotiate and, where appropriate, litigate indemnity claims. As part of our representation of insurers with respect to food and beverage recall issues, we counsel insurers on complex insurance coverage issues, including the applicability and limitations of sistership/recall and your product exclusions, to contamination/recall and business interruption claims.

Representative Matters

LITIGATION, SUBROGATION AND INSURANCE

- Handled claim by purchaser of client's fruit product that contained listeria and exceeded the allowable pesticide level to be labeled "organic"

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Related Practices

Food Recall Subrogation

- Pursuing \$2.6 million in damages arising from food containing an allergen unknowingly derived from a spice ingredient and not disclosed on the packaged food label
- Represented fruit distributor in matter alleging contamination of fruit with foreign matter
- Investigated and resolved a food recall case involving, among other claims, dental damage due to stones associated with improper processing of vegetables during the farming process
- On behalf of an insurer, investigated the disintegration of a water filter used in the food preparation process resulting in the potential contamination of processed food
- Pursuing a contribution action against an ingredient supplier who provided contaminated ingredients to the client's insured, a food manufacturing company, which were then incorporated into a filling mixture
- Represented a liability insurer in evaluating scope of coverage, if any, available to insured which was sued by major food company for allegedly contaminating food product with metal particles
- Defended liability insurer against suit brought by its insured seeking to recover what insured paid to settle recall and other claims based on allegedly defective glue used in beer packaging

COUNSELLING AND INTELLECTUAL PROPERTY

- Represents a food manufacturer in a variety of matters, including real estate and permitting disputes; breaches of co-packing agreements; trade secret claims; review and analysis of confidentiality, nondisclosure, and co-packing agreements; employment issues, and food safety issues
- Represented food manufacturer and distributor in various transactions including acquisition and financing of manufacturing facilities, acquisition and licensing of significant brands, distribution rights for various products and sale of a major yogurt brand to private equity fund
- Represents a large distributor of specialty honey in connection with labeling and labeling claims
- Represented beverage distributors in matters relating to operations and sales of their businesses
- Counsel large chocolate company in connection with intellectual property matters
- Counsel pet food company in connection with corporate, labeling and intellectual property matters
- Counsel grower and distributor of fruits in intellectual property matters
- Served as counsel to a New Jersey based brewery in recapitalization transaction
- Represented major manufacturer of food packaging equipment in several patent reexamination proceedings before the USPTO resulting in successful invalidation of the patents asserted against our client
- Counseled and sought patent protection for several food and beverage companies, including performing prior art reviews of patent landscape and drafting patent applications covering food formulations and methods of manufacture
- For over twenty years, served as outside general counsel to a company that nationally sold food products directly to consumers, covering all aspects of business operations, including working with its Chief Compliance Officer on food regulatory and food safety issues
- Represented a company that distributes a product used in livestock production and processing primarily in the poultry segment

- For over twenty years, represented one of the larger New York distributors of agricultural produce
- Took an aquatic farming and distribution company public on the NYSE and advised on the distribution of aquatic products and processed packaged meals
- Advised a client on the development of a food processing and storage facility in cooperation with a global food company

Stay Current

U.S. Food & Drug Administration Recalls

U.S. Department of Agriculture Recalls

FDA Food Safety Modernization Act (FSMA) Compliance Dates

News

12th Annual Coverage College Features Current Trends and State of the Insurance Claims Industry
October 23, 2018

Publications

FDA Issues Final Guidance On Public Warnings And Notification Of Recalls
Food and Beverage Alert | February 28, 2019

Food for Thought: FDA's New Foreign Supplier Verification Program
Food and Beverage Alert | February 20, 2018

FDA Issues Draft Guidance on Public Notification of Recalls
Food and Beverage Alert | January 23, 2018

Made In America Claims For Foods
Food and Beverage Alert | October 10, 2017

Cases & Deals

Seven-Figure Settlement Reached Against Spice Ingredient Supplier

Appeal Secures Seven-Figure Settlement for Philadelphia-Based Food Manufacturer
May 31, 2018