Shook, Hardy & Bacon L.L.P.

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# FOOD & BEVERAGE LITIGATION UPDATE

CONTENTS



## FOCUS ON OBESITY

The parties to obesity-related litigation, brought on behalf of several teenagers against fast-food giant McDonald's Corp. in 2002, have filed a stipulation of voluntary dismissal with prejudice. *Pelman v. McDonald's Corp.*, No. 02-7821 (U.S. Dist. Ct., S.D.N.Y., stipulation filed February 25, 2011). The action followed entry of an order in December 2010 scheduling pre-trial discovery and motions filing and briefing for the individual claims remaining in this putative class action. A court refused to certify the action as a class in October.

*Pelman* was closely watched by industry and consumer advocates as it made several trips before the Second Circuit Court of Appeals that ultimately narrowed the issues for trial. It was expected to be ground-breaking litigation that would allow access to industry documents which plaintiffs' interests believed could be used to bring a flood of litigation against companies they blame for the nation's increasing incidence of obesity. The experience of litigators opposing cigarette manufacturers was cited as the standard for food-related lawsuits.

Yet, the only claims that would have gone to trial in *Pelman* were allegations that the teenagers' obesity-related health problems were caused by misleading advertisements which led them to believe that fast food could be consumed daily without any adverse health effects. The plaintiffs also alleged that the company failed to disclose that some product ingredients and processing were "substantially less healthy than were represented" and that its nutritional brochures and information materials were not readily available in company restaurants.

In the years since *Pelman* was filed and became mired in a number of legal roadblocks, consumer advocates have explored various options for addressing the rising incidence of obesity in the United States. They quickly realized that it would be difficult, if not impossible, to blame a single restaurant chain or food item or ingredient for individual problems with excess weight. So they began to focus instead on a wide-ranging agenda that includes regulating school lunch programs and vending machines, zoning to address urban food deserts, increasing taxes on soft drinks, changing agri-

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cultural subsidies, placing restrictions on youth marketing, and mandating certain content on food labels and restaurant menu boards.

Most recently, a lawsuit seeking to force McDonald's to stop putting toys in its children's Happy Meals® and the passage of local laws to the same effect have been the advocacy tools of choice, but others are also on the horizon. Some believe that research into "obesegens," those chemicals found in food packaging or the environment and thought to disrupt metabolism, energy balance and appetite regulation, could hold the key to successful obesity intervention. **Others**, such as the Public Health Advocacy Institute (PHAI), are looking at state consumer protection laws as a means to protect consumers and children from "junk food marketing."

According to PHAI Executive Director Mark Gottlieb, the organization published the compendium of state laws to encourage public health organizations to file lawsuits targeting the food industry's marketing practices. Gottlieb and Stephen Gardner, director of litigation for the Center for Science in the Public Interest, recently discussed the future of obesity litigation during a **panel discussion** available for viewing on C-SPAN.

Part of their discussion included mention of lawsuits against the tobacco industry that resulted in large damage awards. The comparisons to tobacco are pervasive in obesity literature, and employees now opposing employment policies that prohibit companies from hiring smokers are wondering whether future policies will target other off-the-clock behaviors, such as drinking, consuming foods of minimal nutritional value or engaging in sex. *See The New York Times*, February 10, 2011.

Meanwhile, legislation that would immunize food companies from liability for obesity or obesity-related health conditions, referred to in the press as "Cheeseburger Bills," are currently in effect in about half the states, and a renewed effort is underway to introduce and pass them in additional states. For example, the Minnesota Legislature is currently considering **H.F. 264**, a bill intended to protect food manufacturers from frivolous lawsuits. With Republicans controlling the House and Senate in Minnesota, the prospects for passage of the bill, introduced repeatedly since 2004, are reportedly considered good. *See St. Cloud Times*, February 6, 2011.

It can be anticipated that initiatives, such as first lady Michelle Obama's "Let's Move" campaign, and **research** on obesity prevalence showing that more than one-third of adults in the United States are obese will continue to preoccupy advocates and litigators in coming years. With the World Health Organization planning to discuss restrictions on marketing foods of poor nutritional quality to children to address a "fat tsunami" when heads of state meet at U.N. headquarters in September 2011, the spotlight will likely be on food industry practices and their purported relationship to obesity in the near term.

## LEGISLATION, REGULATIONS AND STANDARDS

### GAO Report Targets Food Safety Overlap

The Government Accountability Office (GAO) has issued a March 2011 **report** identifying 34 areas, including agriculture, "where agencies, offices, or initiatives have similar or overlapping objectives or provide similar services to the same populations; or where government missions are fragmented across multiple agencies." Commissioned by Congress, this first annual report also summarizes 47 areas where lawmakers or regulators could further reduce the cost of government. These results reflect both new research undertaken by GAO and previously compiled reports, such as the February 16, 2011, edition of the *High-Risk Series* covered in **Issue 382** of this *Update*.

When it comes to the agriculture sector, according to GAO, "[t]he fragmented federal oversight of food safety has caused inconsistent oversight, ineffective coordination, and inefficient use of resources." The report notes that 15 federal agencies "collectively administer at least 30 food related laws," with the U.S. Department of Agriculture (USDA) overseeing meat, poultry, processed egg products, and catfish, and the Food and Drug Administration (FDA) responsible "for virtually all other food, including seafood." GAO particularly found fault with the 2008 Farm Bill, which split seafood safety between USDA and FDA, as well as the import screening system used by the Department of Homeland Security's Customs and Border Protection, which evidently does not notify USDA or FDA when imported food shipments arrive at U.S. ports.

In addition to directing the Office of Management and Budget to work with federal agencies to develop "a governmentwide [sic] performance plan for food safety," the report identifies several "alternative organizational structures that could be analyzed in more detail." These structures include: (i) "a single food safety agency, either housed within an existing agency or established as an independent entity, that assumes responsibility for all aspects of food safety at the federal level"; (ii) "a single food safety inspection agency that assumes responsibility for food safety inspection activities, but not other activities, under an existing department, such as USDA or FDA"; (iii) "a data collection and risk analysis center for food safety that consolidates data collected from a variety of sources and analyzes it at the national level to support risk-based decision making"; and (iv) "a coordination mechanism that provides centralized, executive leadership for the existing organizational structure, led by a central chair who would be appointed by the president and have control over resources."

In the meantime, GAO has called on Congress to enact "comprehensive risk-based food safety legislation" that goes beyond the January 2011 FDA Food Safety Modernization Act. Although these changes might not produce significant cost savings, the report concludes that "new costs may be avoided

by preventing further fragmentation" and that reorganization efforts "could result in a number of nonfinancial benefits," including "improved consumer confidence in the systems."

GAO has also speculated that reducing some farm program payments could indeed result in "substantial savings," as much as $5 billion annually if USDA eliminated or reduced direct payments to farmers, and "particularly those to large farming operations." The report estimates that government could save approximately (i) $800 million over 10 years "by reducing payment and income eligibility limits for a very small portion of recipients"; (ii) $600 million annually "by reducing the portion of acres used to calculate payments to 75 percent"; and (iii) $5 billion annually "by terminating or phasing out the payments."

"Given the challenges noted above, careful, thoughtful actions will be needed to address many of the issues discussed in this report, particularly those involving potential duplication," notes U.S. Comptroller General Gene Dodaro in the report's introduction, which also highlights the Government Performance and Results Act (GPRA) Modernization Act of 2010. "Implementing provisions of the new act—such as its emphasis on establishing outcome-oriented goals covering a limited number of crosscutting policy areas—could play an important role in clarifying desired outcomes, addressing program performance spanning multiple organizations, and facilitating future actions to reduce unnecessary duplication, overlap, and fragmentation." *See Law360,* March 1, 2011; *Bloomberg,* March 2, 2011.

### FDA Warns Ohio Producer for Shipping Eggs from Contaminated Site

The Food and Drug Administration (FDA) has issued a **warning letter** to CEO John Glessner of Ohio Fresh Eggs, after finding that it had shipped nearly 800 cases of eggs from farms that had tested positive for *Salmonella*. The Ohio company is reportedly linked to the egg producer involved in a massive egg recall in 2010; Glessner apparently has ties to Hillandale Farms of Iowa whose owner Jack DeCoster apparently provided most of the funds to purchase Ohio Fresh Eggs from a previous owner. The company has reportedly characterized the shipment as a mistake and was quoted as saying, "Our farm cooperated fully with FDA to ensure a swift and complete recall of those eggs from our customer, and we are thankful no illnesses were reported." *See Des Moines Register*, March 1, 2011.

### FDA Issues Final Rule on Alternative Temperature-Indicating Devices for Low-Acid Foods

The Food and Drug Administration (FDA) has issued a **final rule** amending its regulations "for thermally-processed low-acid foods packaged in hermetically sealed containers to allow other temperature-indicating devices, in addition

to mercury-in-glass thermometers, during processing." The final rule follows from a March 14, 2007, proposal covered in Issue 207 of this *Update*.

Effective March 5, 2012, the new regulation also "establishes recordkeeping requirements" for alternative temperature-indicating devices, "allows for the use of advanced technology for measuring and recording temperatures," and "includes metric equivalents of avoirdupois (U.S.) measurements where appropriate." In addition, it permits low-acid canned food processors "to transition from mercury-in-glass thermometers to alternative temperature-indicating devices," which will "eliminate concerns about potential contamination of the food or the processing environment from broken mercury-in-glass thermometers." *See The Federal Register,* March 3, 2011.

### FDA to Allow Use of Hydrogen Peroxide in Modified Whey

The Food and Drug Administration (FDA) has issued a final rule that amends its food additive regulations to allow hydrogen peroxide to be used as an "antimicrobial agent in the manufacture of modified whey by ultrafiltration methods." Effective March 2, 2011, the rule responds to a petition filed by Fonterra (USA) Inc. requesting the change as an alternative to "electrodialysis methods" used in whey processing.

Hydrogen peroxide has been affirmed as generally recognized as safe (GRAS) for human consumption when electrodialysis methods are used for whey processing under certain conditions. After reviewing data on ultrafiltration methods, FDA has determined that hydrogen peroxide "will achieve its intended technical effect as an antimicrobial agent under the proposed conditions of use." FDA requests objections to the rule or requests for a hearing by April 1. *See Federal Register,* March 2, 2011.

### CDC Researchers Call for Rapid Tracing of Food Source Contamination

Centers for Disease Control and Prevention (CDC) researchers have called for rapid tracing of food source contamination to reduce illness and save lives. Casey Barton Behravesh, et al., "2008 Outbreak of Salmonella Saintpaul Infections Associated with Raw Produce," *The New England Journal of Medicine*, February 2011. Investigating the 2008 *Salmonella* outbreak first blamed on American tomatoes but later pinpointed to Mexican peppers, researchers concluded that the outbreak—linked to approximately1,500 illnesses and two deaths—"highlights the importance of preventing raw-produce contamination."

The report calls for (i) product-tracing systems improvements, including the "ability of the systems to work together for more rapid tracing of implicated products through the supply chain in order to maximize public health protection and minimize the economic burden to industry"; (ii) "an understanding

of the mechanisms and ecologies that can lead to contamination of produce on farms"; and (iii) "the institution of additional control measures from the source throughout the supply chain [which] are critical for preventing similar outbreaks in the future."

"This outbreak investigation highlights the recurring challenges of epidemiologic identification of ingredients in foods that are commonly consumed, rapid identification and investigation of local clusters, the need to continue exploring hypotheses during an ongoing outbreak, and produce tracing in the supply chain," the authors wrote. "Traceback issues such as commingling, repacking, varying degrees of product documentation throughout the supply chain, difficulty in linking incoming with outgoing shipments to the next level in the distribution chain, and the complexity of the distribution chain continue to hinder product-tracing efforts."

A companion **editorial** applauds the new Food Safety Modernization Act as legislation that "brings long overdue modernization" to the Food and Drug Administration's food-safety authority, but claims the law "has a major shortcoming: dollars."

### UK's FSA Investigates Safety of Ice Cream Made with Breast Milk

The United Kingdom's Food Standards Agency (FSA) has reportedly launched an investigation to determine if a brand of ice cream made with donated breast milk has violated food safety regulations. Launched recently by a London-area restaurant, Baby Gaga ice cream was evidently pulled by the Westminster City Council after several complaints were lodged about whether the product was safe for human consumption.

According to a news source, FSA joined with the council to decide if the ice cream breaches regulations mandating that "food shall not be placed on the market if it is unsafe" and that "food shall be deemed to be unsafe it if it is considered to be (i) injurious to health, and (ii) unfit for human consumption." An industry source was quoted as saying that human breast milk donated to breast milk banks is required to pass rigorous screening to comply with guidelines established by the National Institute for Health and Clinical Excellence.

Noting that his restaurant, The Icecreamists, complied with all relevant health and safety regulations, owner Matt O'Conner was quoted as saying that the ice cream used milk from 15 mothers and was screened by a private clinic to meet hospital standards. "If we're going to live in a society that's absurd and insane enough to think it's perfectly acceptable to drink alcohol that can kill you, or smoke yourself to death or take other drugs like amyl nitrate, which is perfectly legal to buy in Westminster, yet breast milk is seen as a danger to children, I say empty your babies' bottles, fill them with Jack Daniels and give them to your kids," he said. *See FoodManufacture.co.uk.com,* March 1, 2011.

### Arizona House Panel Passes Law to Stop "Consumer Incentive" Meal Restrictions

The Arizona House of Representatives Commerce Committee has reportedly approved a bill (H.B. 2490) that would block cities and counties from enacting laws that would prohibit restaurants, food establishments or convenience stores from offering "consumer incentive items" with meals. Scheduled to go before the House for a full vote, the law identifies the items as "any licensed media character, toy, game, trading card, contest, point accumulation, club membership, admission ticket, token, code or password for digital access, coupon, voucher, incentive, crayons, coloring placemats or other premium or prize or consumer product."

Telling a news source that "government needs to stay out of the way of free enterprise," Representative Jim Weiers (R-Glendale) challenged arguments that toy giveaways tied with high-fat, high-calorie meals contributed to childhood obesity. "Ask the parents who are supposed to be ultimately responsible," he said. But House Minority Leader Chad Campbell (D-Phoenix) asserted that the issue should be left to local governments. "If the cities want to try and do that and the voters of the city are unhappy, the voters of that city can throw out that city council and that mayor," he said. *See The Sierra Vista Herald,* February 25, 2011.

## LITIGATION

### U.S. Supreme Court Rules FOIA Personal-Privacy Exemption Applies to Individuals Not Corporations

The U.S. Supreme Court has determined that a Freedom of Information Act (FOIA) exemption barring the release of law enforcement records whose release "could reasonably be expected to constitute an unwarranted invasion of personal privacy" is inapplicable to documents provided to a federal agency by a corporation. ***FCC v. AT&T, Inc.*, No. 09-1279 (U.S., decided March 1, 2011).** Expressing the wish that "AT&T will not take it personally," Chief Justice John Roberts, writing for the 8-0 court, rejected its argument that "personal privacy" under FOIA reaches corporations because the statute defines "person" to include a corporation.

The case involved an investigation launched after AT&T voluntarily provided certain information to the Federal Communications Commission (FCC) arising from the company's participation in a program to enhance schools and libraries' access to advanced telecommunications and information services. AT&T apparently reported that it might have overcharged the government for its program services. While the FCC and AT&T resolved the matter through a consent decree, a trade association representing the company's competitors

made a FOIA request for all pleadings and correspondence in the agency's files relating to the investigation.

The agency withheld some of the requested documents as "trade secrets and commercial or financial information," and it determined that other information would be withheld under FOIA exemption 7(C), the "unwarranted invasion of personal privacy" exemption, because it involved information about individuals. The exemption was not applied to the corporation itself, so AT&T sought review in the Third Circuit Court of Appeals, which determined that exemption 7(C) extended to corporations.

The U.S. Supreme Court explored dictionary definitions and common usage to reverse the circuit court, finding that a corporation does not have "personal privacy" interests. The Court does not mention in the opinion that it extended First Amendment protections to corporations during its last term.

**Ninth Circuit Finds GE Sugar Beet Seedlings Unlikely to Pose Threat of Irreparable Injury**

The Ninth Circuit Court of Appeals has reversed a district court ruling that would have required those who had planted genetically engineered (GE) sugar beet seedlings to destroy the crop. ***Ctr. for Food Safety v. Vilsack*, Nos. 10-17719, -17722 (9th Cir., decided February 25, 2011)**.

The Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) had issued permits allowing the GE sugar beet seedlings to be planted in select, remote areas and imposing conditions prohibiting flowering or pollination before the permits expired on February 28, 2011.

The plaintiffs challenged those permits because they were issued before APHIS had completed an environmental impact statement, which was required by a previous court order, and the district court concluded that they were likely to prevail on the merits. Additional details about the case appear in Issues **366** and **374** of this *Update*.

While the Ninth Circuit agreed with the lower court that the plaintiffs had demonstrated a cognizable injury in fact, thus establishing standing under the National Environmental Policy Act, it determined that they had not shown, for purposes of obtaining a preliminary injunction, that irreparable harm was likely. According to the Ninth Circuit, seedlings, otherwise referred to as "stecklings," "pose a negligible risk of genetic contamination, as the juvenile plants are biologically incapable of flowering or cross-pollinating before February 28, 2011, when the permits expire." The court also noted that the district court's contrary ruling was based on "*past* examples of contamination with other plants" and not on "continuing, present adverse effects." The court cites a U.S. Supreme Court ruling about GE alfalfa, warning against injunctive relief "where APHIS's action is 'sufficiently limited' that 'the risk of gene flow to [Plaintiffs'] crops could be virtually nonexistent.'"

Because "Plaintiffs' allegations of harm hinge entirely on *later* stages of Roundup Ready sugar beet planting and production," the court determined that when they sought the preliminary injunction, "none of the irreparable harms they sought to prevent were likely. Their alleged irreparable harms hinged on future APHIS decisions." The court noted that APHIS authorized later stages of GE sugar beet planting and production in February 2011, a decision that the plaintiffs have challenged. Information about that lawsuit appears in Issue **383** of this *Update*.

The court concluded by observing, "[T]his appeal presents a thin slice of a larger litigation. Perhaps, in the end, the entire controversy will be resolved, and we can say that the 'fair discourse hath been as sugar, [m]aking the way sweet and delectable.' William Shakespeare, *Richard II*, act 2, sc. 3. Needless to say, given the course of the litigation, that is unlikely." According to the court, at this time, "Biology, geography, field experience, and permit restrictions make irreparable injury unlikely."

### Insurer Claims Policy Does Not Cover Diacetyl Claim Damages

An insurer that issued commercial umbrella policies to a company that makes flavorings ingredients, including those used in butter-flavored microwave popcorn, is seeking a declaration that it has no obligation under those policies to defend or indemnify the company in lawsuits alleging respiratory injury from exposure to diacetyl. *Continental Cas. Co. v. Citrus & Allied Essences Ltd.*, No. 650548/2011 (N.Y. Sup. Ct., filed February 28, 2011). More than 50 diacetyl lawsuits have apparently been filed against the ingredients supplier by individuals alleging workplace exposures. The insurer contends among other matters that it was not timely notified about some of the suits, the injuries did not occur during the policy coverage period, pollution exclusions preclude coverage, and the insured has settled lawsuits without the insurer's consent.

## OTHER DEVELOPMENTS

### FOE Report Critical of GM Crop Data

Friends of the Earth (FOE) International has published a February 2011 **report** claiming that "the biotech industry and its sponsors generate considerable hyperbole about the benefits that GMOs [genetically modified organisms] provide to farmers, consumers and the environment." Titled *Who Benefits from GM Crops?*, the report criticizes data **released** by the International Service for the Acquisition of Agri-Biotech Applications (ISAAA), alleging that, contrary to ISAAA's findings, "GM crops do not generate increased yields or help to solve hunger but are actually increasing pesticide use, contaminating seeds and food, and destroying poor farmers' livelihoods because of high costs and monopolies."

In particular, FOE asserts that "public opposition to GMOs is rising and the area of agricultural land dedicated to GM crops is declining" in Europe, while regulatory and legal actions in the United States, India, Brazil, Uruguay, and Argentina purportedly reflect an increased willingness to curb the use of GMOs. The report apparently details "bans and moratoria, petitions, lobbying, and direct action against field trials" initiated by farmers, NGOs, and local communities in these and other countries. It also highlights the ongoing process to approve GM salmon and pigs in the United States, as well as *Aedes aegypti* mosquitoes in Malaysia. "The biotech sector is marred by public discontent and fails to deliver on its promises of new traits of nutrient-enhanced and climate-resilient crops to address the twin challenges of malnutrition and climate change," opines FOE, which ultimately faults the U.S. government for backing both GM crops and animals. *See FOE Press Release,* February 22, 2011.

## MEDIA COVERAGE

**Denise Mann, "Can You Get Hooked on Diet Soda?," *Health.com,* February 25, 2011**

"Diet soda isn't as addictive as drugs like nicotine, but something about it seems to make some people psychologically—and even physically—dependent on it," opens this *Health.com* article on individuals who drink more than the average amount of diet soda per day. According to journalist Denise Mann, some diet soft drink aficionados imbibe anywhere from four cans to 2 liters every day, raising questions for medical professionals about whether these consumers are "true addicts."

The article cites self-reported "addicts" as well as researchers claiming, for instance, that some diet soda drinkers are simply swapping one compulsive behavior for another, or conditioning themselves to crave diet soft drinks while performing certain activities. But Mann also references research suggesting that "the artificial sweeteners in diet soda (such as aspartame) may prompt people to keep refilling their glass because these fake sugars don't satisfy like the real thing." In addition, she notes that although these sweeteners do not contain calories, "drinking too much diet soda might be risky in the long-run."

"In recent years, habitual diet-soda consumption has been linked to an increased risk of low bone mineral density in women, type 2 diabetes, and stroke," warns Mann. "What's more, a growing body of research suggests that excessive diet soda intake may actually encourage weight gain."

## SCIENTIFIC/TECHNICAL ITEMS

### Most Plastic Products Alleged to Release Estrogenic Chemicals

A recent study of commercially available plastic products has reportedly claimed that "almost all" those sampled leached chemicals having reliably detectable estrogenic activity (EA). Chun Z. Yang, et al., "Most Plastic Products Release Estrogenic Chemicals: A Potential Health Problem That Can Be Solved," *Environmental Health Perspectives,* March 2011. Researchers evidently used "a very sensitive, accurate, repeatable, roboticized MCF-7 cell proliferation assay to quantify the EA of chemicals leached into saline or ethanol extracts of many types of commercially available plastic materials, some exposed to common-use stresses," such as microwaving or UV radiation.

The results indicated that these products, "independent of the type of resin, product, or retail source," emitted chemicals having EA despite being advertised as EA-free. In particular, products labeled free of bisphenol A (BPA) sometimes released chemicals "having more EA than BPA-containing products," according to the study's authors, who pointed to "existing, relatively-expensive monomers and additives that do not exhibit [EA]" as a potential commercially-viable alternative to these plastics.

### Soft Drink Consumption Allegedly Associated with Increased Blood Pressure

U.K. researchers have reportedly linked sugar-sweetened beverages to a risk of high blood pressure, speculating that "one possible mechanism" for the association "is a resultant increase in the level of uric acid in the blood that may in turn lower the nitric oxide required to keep the blood vessels dilated." Ian Brown, et al., "Sugar-Sweetened Beverage, Sugar Intake of Individuals, and Their Blood Pressure: International Study of Macro/Micronutrients and Blood Pressure," *Hypertension,* February 2011. Researchers apparently analyzed food survey, urine and blood pressure data from 2,696 participants enrolled in INTERMAP, or the International Study of Macronutrients, Micronutrients and Blood Pressure.

According to a February 28, 2011, Imperial College of London press release, the results purportedly showed that "for every extra can of sugary drink consumed per day, participants on average had a higher systolic blood pressure by 1.6 mmHg and a higher diastolic blood pressure by 0.8 mmHg." The study did not report a similar effect for diet soda drinkers, but found the association most pronounced in regular soda drinkers who also consumed the most sodium. "This points to another possible intervention to lower blood pressure," one author was quoted as saying. "These findings lend support for recommendations to reduce the intake of sugar-sweetened beverages, as well as added sugars and sodium in an effort to reduce blood pressure and improve cardiovascular health." *See Food-Navigator-USA.com,* March 1, 2011.

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# FOOD & BEVERAGE LITIGATION UPDATE

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## UPCOMING CONFERENCES & SEMINARS

### NIAA Conference to Focus on Consumer Role in Food Production, Food Supply and Food Safety

The National Institute for Animal Agriculture (NIAA) has scheduled its annual conference for April 11-14, 2011, in San Antonio, Texas. Titled "Consumers' Stake in Today's Food Production: Meeting Growing Demands with Integrity," the event will include presentations on food supply and food safety issues. Shook, Hardy & Bacon Agribusiness & Food Safety Co-Chair Mark Anstoetter will speak during the conference about "Legal Challenges and Ramifications of Food Production Systems and Food Safety." Shook, Hardy & Bacon is a conference co-sponsor.

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## FOOD & BEVERAGE LITIGATION UPDATE

Shook, Hardy & Bacon is widely recognized as a premier litigation firm in the United States and abroad. For more than a century, the firm has defended clients in some of the most substantial national and international product liability and mass tort litigations.

SHB attorneys are experienced at assisting food industry clients develop early assessment procedures that allow for quick evaluation of potential liability and the most appropriate response in the event of suspected product contamination or an alleged food-borne safety outbreak. The firm also counsels food producers on labeling audits and other compliance issues, ranging from recalls to facility inspections, subject to FDA, USDA and FTC regulation.

SHB lawyers have served as general counsel for feed, grain, chemical, and fertilizer associations and have testified before state and federal legislative committees on agribusiness issues.