



MEDIA COVERAGE

Shook Attorneys Present Webinar on Minimizing FDA Enforcement Risk on Food Importers

In spring 2020, the U.S. Food and Drug Administration (FDA) started regulating food importers under the Foreign Supplier Verification Program (FSVP). FSVP requires a food importer to create a due diligence program to review and approve its foreign suppliers and conduct activities to verify that the food is produced in a manner that provides at least the same level of safety as the U.S. requirements. FDA started to fully enforce FSVP by issuing Warning Letters, import alerts and even import refusals for non-compliance.

Shook FDA and Food, Beverage and Agribusiness attorneys [John F. Johnson III](#) and [Elizabeth Fessler](#) will present the webinar “[FDA’s Foreign Supplier Verification Program Enforcement: Learned Lessons from FDA’s First Actions](#),” exploring the lessons that can be learned from these first enforcement actions and providing practical recommendations for what food importers can do to minimize the risk of FDA enforcement. The one-hour webinar, which is sponsored by the National Customs, Brokers and Forwarders Association of America (NCBFAA) Educational Institute, is December 10, 2020, at 1 p.m. EST.

LEGISLATION, REGULATIONS & STANDARDS

FDA Warns Frito-Lay About Allergen

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Shook offers expert, efficient and innovative representation to clients targeted by food lawyers and regulators. We know that the successful resolution of food-related matters requires a comprehensive strategy developed in partnership with our clients.

For additional information about Shook’s capabilities, please contact



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Labeling

The U.S. Food and Drug Administration (FDA) has warned Frito-Lay Inc. about “serious violations of the Current Good Manufacturing Practice, Hazard Analysis, and Risk-Based Preventive Controls for Human Food regulation” because its investigators found potato chips to be misbranded “in that the finished product labels did not declare a major food allergen (milk)” in addition to being “prepared, packed or held under insanitary conditions whereby they may have been rendered injurious to health.” The warning applied to Ruffles Cheddar & Sour Cream Potato Chips packaged with labels for the wrong type of chips, the Ruffles Original variety, at one facility. At another facility, the company reportedly failed to implement “allergen preventive control procedures to significantly minimize or prevent allergen cross-contact,” which require the company to “verify that all visible evidence of prior seasoning is removed” after producing Lay’s Limón Flavored Potato Chips.



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Lab-Grown Meat Approved in Singapore

Singapore has reportedly approved for sale a lab-grown meat product to be sold as “cultured chicken.” The product, created by Eat Just, has been approved for use in chicken nuggets following a safety assessment submitted to the Singapore Food Agency’s “novel food” working group. The cultured chicken will reportedly sell for a price comparable to animal-derived chicken nuggets and will be available “soon enough to begin making a reservation” at an unnamed restaurant, according to Eat Just founder Josh Tetrick.



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LITIGATION

TGI Friday’s Mozzarella Sticks Made with Cheddar, Plaintiff Alleges

A consumer has filed a putative class action alleging that Inventure Foods Inc., which produces the T.G.I. Friday’s line of frozen foods, produces its “mozzarella sticks” with cheddar. *Nason v. Inventure Foods Inc.*, No. 20-10141 (S.D.N.Y., filed December 3, 2020). The plaintiff cites the ingredient list, which lists only cheddar and not mozzarella, and asserts that “cheddar is a ‘hard’ cheese less suitable for chewing and lacks the dairy taste of real mozzarella.” The complaint further argues that

ABOUT SHOOK

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.

Shook 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

“mozzarella is more nutritious because it contains more calcium and less fat and calories than cheddar.” The plaintiff alleges violations of the Magnuson-Moss Warranty Act, New York’s consumer-protection statutes and negligent misrepresentation.

inspections, subject to FDA, USDA and FTC regulation.

Turkey Welfare Challenged at Ranches

A plaintiff has filed a putative class action alleging Diestel Turkey Ranch falsely markets its turkeys as “thoughtfully raised on sustainable family farms with plenty of fresh air and space to roam.” *Wetzel v. Diestel Turkey Ranch*, No. 20-1213 (D.N.M., filed November 19, 2020). The plaintiff argues that Diestel “sources the overwhelming majority of its turkeys from growers outside of Sonora, California, at typical factory farms [], where turkeys are raised in large, overcrowded metal sheds that lack sufficient space to engage in natural behaviors and are often mired in manure and slaughterhouse waste—*i.e.*, not ranches or ranch-like conditions depicted at the Sonora Ranch.” The plaintiff alleges violations of New Mexico’s false advertising law.

Cargill Inc. faces similar allegations in a [complaint](#) filed with the Federal Trade Commission by several advocacy groups. “Cargill makes numerous representations that lead consumers to believe the turkeys used in its Products are raised by ‘independent family farmers,’” the groups assert. “Cargill uses its ‘independent family farmers’ narrative to imply that the Products have far-reaching benefits for workers, animals, and the environment. As set forth in the complaint, Cargill is egregiously misleading consumers with these representations, because the Products are in fact produced on large, corporate-controlled factory farms. Far from the bucolic family farms portrayed by Cargill’s marketing, Cargill’s actual production methods exploit contract farmers and slaughterhouse workers, systematically abuse animals, and cause grave harms to the environment.”



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