

FOOD AND BEVERAGE LITIGATION AND REGULATORY UPDATE

SHOOK
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A corporate vow to remove artificial dyes from food products, a proposed 18-point scale to evaluate whether a food is "clean," a lawsuit on mislabeled "foreign fish," and more.

[M. KATIE GATES CALDERON](#) | [LINDSEY K. HEINZ](#) | [JAMES P. MUEHLBERGER](#)

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LEGISLATION, REGULATIONS & STANDARDS

Think Tank Argues for Closing GRAS Loophole

U.S. policymakers should consider reforms to close loopholes surrounding Generally Recognized as Safe (GRAS) substances, according to an [issue brief](#) from the America First Policy Institute. The report recommends against allowing companies to self-affirm a substance is GRAS and eliminating conflicts of interest relating to GRAS science.

In a [statement](#), former Louisiana Gov. and U.S. Rep. Bobby Jindal, chair of the organization's Healthy America Initiative, said that under current law food manufacturers can insert newly synthesized substances into the U.S. food supply without notifying the U.S. Food and Drug Administration or disclosing safety data if the manufacturer self-affirms that the substance is GRAS. "The GRAS pathway is a major reason why American foods contain an estimated 15 times

more ingredients— including preservatives, flavor enhancers, and other manmade compounds—than foods in Europe, and is riddled with conflicts of interest,” he said.

California Senate Committee Advances School UPF Bill

The California Senate Education Committee has unanimously voted to advance [AB 1264](#), which would phase out ultra-processed foods (UPF) from meals served in public schools by 2032. The bill, which [passed](#) the State Assembly and next heads to the Senate Committee on Environmental Quality, aims to create a first-in-the-nation legal definition of UPF.

Kraft Heinz Announces Move to Eliminate Artificial Dyes

The Kraft Heinz Co. has [announced](#) that, over two years, it will remove artificial Food, Drug & Cosmetic (FD&C) colors from its U.S. product portfolio and that it will not launch any new products containing them. The move follows an April [announcement](#) that the U.S. Department of Health and Human Services and U.S. Food and Drug Administration will take a series of measures to phase out all petroleum-based synthetic dyes from the U.S. food supply.

GAO Flags Open USDA Recommendations

The Government Accountability Office (GAO) has flagged five open priority recommendations to the U.S. Department of Agriculture (USDA) Secretary Brooke Rollins, including a recommendation that USDA mitigate the risk of pathogens from food products and animals. In a [letter](#), GAO said that each year, foodborne illnesses sicken one in six Americans and thousands die. GAO indicated it has made recommendations for USDA to improve its oversight of

food safety, including recommending that the agency take steps to effectively reduce *Salmonella* and *Campylobacter*, as well as implement a wildlife disease surveillance system to support early detection of zoonotic disease outbreaks and enhance preparedness for emerging zoonotic diseases.

LITIGATION

Court Dismisses Allegations that Restaurant Sold Mislabeled Foreign Fish

A Mississippi federal court has thrown out a customer's putative class action claiming Quality Poultry & Seafood, Inc. and Mary Mahoney's, Inc. mislabeled foreign fish as locally sourced and sold it to customers of Mahoney's restaurant. [*McCain v. Mary Mahoney's, Inc.*](#), No. 24-0241 (S.D. Miss., filed June 10, 2025). The plaintiff alleged that he purchased what defendants fraudulently marketed and represented as high-priced premium local snapper and red snapper and would not have bought the fish had he known they were instead inexpensive frozen foreign fish. The court held that the plaintiff's alleged facts are insufficient to establish a plausible injury-in-fact to establish standing. "The claims in the Amended Complaint are based on possibilities, supported by assumptions and suppositions, but do not present facts from which the Court may draw the reasonable inference that the defendants are liable for the misconduct alleged," the court said.

Court Gives Preliminary Approval to \$8.9M Poppi Settlement

A California federal court has given preliminary approval to an \$8.9 million settlement in a putative class action brought by consumers against VNGR Beverage LLC in litigation centered on Poppi Prebiotic Soda. [*In re VNGR*](#)

[*Beverage, LLC Litigation*](#), No. 24-3229 (N.D. Cal., entered May 23, 2025). The plaintiffs alleged the defendant misleads consumers by marketing its Poppi drinks as “gut healthy” when they contain low amounts of fiber and high amounts of sugar.

SCIENTIFIC / TECHNICAL ITEMS

Microplastics Found in All French Beverage Samples Analyzed

In a first-of-its kind study of beverages sold in France, researchers found that microplastics were present in all the samples they analyzed. Chaïb et al., [*"Microplastic contaminations in a set of beverages sold in France," Journal of Food Composition and Analysis*](#), 144 (2025). The researchers noted that drinks sold in glass bottles were more contaminated by microplastics than other beverages studied; they attributed the higher level of contamination to the paint used on bottle caps and suggested that a cleaning step could significantly reduce contamination.

Study Develops 18-Point Scale for Categorizing "Clean Food"

Researchers at Ariel University and the University of Stirling have developed a scale for evaluating whether a food may be described as "clean." Hino & Sparks, [*"Clean food consumerism: scale development and validation," Food Quality and Preference*](#), 132 (2025). After asking residents of Israel and the United Kingdom whether they associate "clean" food with 22 factors, the researchers developed an 18-point scale focused on perceived health benefits, ease of use, familiarity, authenticity and production process transparency.

"Food manufacturers should recognize that the trend of clean food consumerism is fundamentally driven by these motivations and concerns," the researchers conclude. "For instance, clean food should be made from natural ingredients, free of additives, non-genetically modified, and authentic. This implies that manufacturers should focus not only on offering food that is healthier, familiar, and of high quality to consumers but also on other aspects of their supply chain. In particular, they should emphasize the transparency of the production processes, including detailed information on packaging about ingredients and how the food is made, to maintain a clean and trustworthy image for their brands."

EFSA Finds No Evidence for Styrene Toxicity

The European Food Safety Authority (EFSA) has [released](#) its reassessment on the genotoxicity of styrene following a European Commission (EC) request to reexamine evidence based on the International Agency for Research on Cancer's (IARC's) 2018 classification of the chemical as "probably carcinogenic to humans." EFSA conducted a literature review, including studies referenced in the IARC monograph, to determine whether the EC's proposed limit of 40 parts per billion—equivalent to 40 micrograms of styrene per kilogram of food—is safe for humans and ultimately found "no scientific evidence of genotoxicity for styrene in vivo following oral exposure in rodents." The agency further noted that studies have found that humans are less sensitive to styrene toxicity than rodents. This finding was in line with existing EFSA guidance stating that styrene levels up to 50µg/kg food are not considered a safety concern.

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More to Explore

- Shook received high marks in 2025's **Chambers USA rankings**, including a Band 3 national ranking in the Food & Beverages: Regulatory & Litigation category.

Partner **Katie Gates Calderon**, who co-chairs the firm's Food & Beverage Practice Group and Product Liability Practice Group, was ranked for Litigation: Product Liability in Missouri.

- Shook Senior Counsel **John Johnson III** presents an in-depth look at the Food Safety Modernization Act on July 22, 2025, at the American Conference Institute's **Food Law and Regulation Bootcamp**.
- The **previous issue** of the *Food and Beverage Litigation and Regulatory Update* featured items on a state bill requiring food with specified additives to be labeled "not recommended for human consumption," a putative class action challenging the size of fast food products, dismissed discrimination allegations for non-dairy milks, and more.

Contacts



M. Katie Gates Calderon

Co-Chair, Food & Beverage Practice

816.559.2419

kgcalderon@shb.com



Lindsey K. Heinz

Co-Chair, Food & Beverage Practice

816.559.2681

lhein@shb.com



James P. Muehlberger

Co-Chair, Food and Beverage Practice

816.559.2372

jmuehlberger@shb.com



As the food and beverage industries become more complex, they require effective legal representation that can quickly evaluate potential liability and craft the most appropriate responses to suspected product adulteration, alleged foodborne outbreaks or environmental contamination claims. For decades, manufacturers, distributors and retailers at every link in the food chain have come to Shook, Hardy & Bacon to partner with a legal team that understands the issues they face in today's evolving food production industry. Shook attorneys work with some of the world's largest food and beverage companies to establish preventative measures, conduct internal audits, develop public relations strategies, and advance tort reform initiatives.

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