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ISSUE 364 | SEPTEMBER 17, 2010

FOOD & BEVERAGE LITIGATION UPDATE

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LEGISLATION, REGULATIONS AND STANDARDS

Corn Refiners Trade Group Seeks New Name for High-Fructose Corn Syrup

The Corn Refiners Association has petitioned the Food and Drug Administration (FDA) "to allow manufacturers the option of using 'corn sugar' as an alternative name for high fructose corn syrup." The trade group contends that the public is confused about what the sweetener is and that "'corn sugar' succinctly and accurately describes what this natural ingredient is and where it comes from—corn." According to an association press release, "Contrary to widespread consumer belief, high fructose corn syrup—a safe and affordable natural sweetener found in many popular products on grocery shelves—is not high in fructose when compared with other commonly used nutritive sweeteners, including table sugar, honey and fruit juice concentrates."

Food industry critics immediately responded to news about the petition by claiming those who produce high-fructose corn syrup (HFCS) are less concerned about "epidemic rates of obesity, diabetes and corn allergies" than they are about "a 20 year low in the sale of high fructose corn syrup and the impact it is having on the profitability of members of the Corn Refiners Association." Food activist Robyn O'Brien, writing for *Alternet.com*, claims that those suggesting HFCS, "by any name, is the same as sugar is irresponsible," and argues that adverse health effects "have become increasingly prevalent since its introduction twenty years ago."

The Center for Science in the Public Interest (CSPI), which has taken the position that sugar and HFCS "are nutritionally the same," calls for people to consume less of all added sugars. CSPI Executive Director Michael Jacobson reacted to news about the corn association's petition by stating, "I don't know if 'corn sugar' is the best term to replace 'high-fructose corn syrup' because it sounds like the sugars come right out of the corn. Canada calls the ingredient glucose-fructose syrup; another option might be 'chemically modified corn sweetener.'"

Nutrition Professor Marion Nestle, who also claims that, biochemically speaking, table sugar and HFCS are the same, was quoted as saying, "I'm not eager to help the corn refiners sell more of their stuff. But you have to feel sorry for them. High-fructose corn syrup is the new *trans* fat. Everyone thinks it's poison and food companies are getting rid of it as fast as they can." *See Corn Refiners Association Press Release* and *The New York Times*, September 14, 2010; *Alternet.com* and *CSPI Statement*, September 15, 2010.

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SHB 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.

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FDA Issues Warning Letter to Makers of "Viagra Coffee"

The Food and Drug Administration (FDA) recently issued a **warning letter** to the New York-based manufacturer of "Magic Power Coffee," a product that purportedly contains the active ingredient used in erectile dysfunction medications. According to the letter, INZ Distributors, Inc., has marketed the coffee as a conventional food despite the presence of hydroxythiohomosildenafil, an analogue of sildenafil that is a phosphodiesterase type 5 inhibitor "well known to have an effect on the structure or function of the body." The company has also included instructions to use its product "approximately 30-45 minutes prior to engaging in sexual intercourse."

On the basis of the synthetic active pharmaceutical ingredient and these labeling claims, FDA has concluded that "Magic Power Coffee" is not primarily consumed "for its taste, aroma or nutritive value." The agency has thus deemed the product an unapproved new drug and a misbranded drug in violation of the Food, Drug, and Cosmetic Act. "Furthermore," the letter states, "if 'Magic Power Coffee' were a food, which it is not, it would be adulterated under section (402)(a)(2)(C) of the Act (21 U.S.C. § 342(a)(2)(C))."

FDA has given INZ Distributors, Inc., 15 working days from receipt of the warning letter to correct these violations or risk enforcement action without further notice.

GAO Studies Perchlorate in Water and Food Supplies

A U.S. Government Accountability Office (GAO) **report** to Congress has concluded that perchlorate, which interferes with iodine uptake and poses potential effects on fetal and infant brain development and growth, is ubiquitous in the nation's water and food supply. The chemical is a product of both man-made processes, occurring in rocket fuel, explosives and fireworks, and atmospheric processes. It can be found in drinking water, ground water, surface water, soil, and sediment and has been detected in 74 percent of foods tested, with the highest levels in tomatoes and spinach.

GAO was apparently asked to learn what is known about the extent of perchlorate in water and food supplies, its likely sources, actions federal agencies have taken to respond to or reduce perchlorate releases, and state regulatory actions. The report, titled "Perchlorate: Occurrence is Widespread but at Varying Levels; Federal Agencies Have Taken Some Actions to Respond to and Lessen Releases," contains no recommendations.

The Environmental Protection Agency (EPA), which does not regulate the chemical but has issued an interim advisory guideline of 15 parts per billion, is reportedly considering alternative ways to address iodine deficiency. While Senator Barbara Boxer (D-Calif.) and environmentalists have been seeking strict drinking water regulations, EPA is apparently looking to boost iodine levels in those most at risk. A spokesperson for the environmental group Clean Water Action was quoted as saying, "We utterly oppose a strategy of putting the onus on the public to take something to 'protect against perchlorate exposure.' Holding polluters accountable is the way to go." *See Inside EPA.com*, September 15, 2010.

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Leahy Introduces Legislation to Hold Food Safety Violators Accountable

U.S. Senator Patrick Leahy (D-Vt.) has introduced a bill (S.3767) that would "hold violators of food safety standards accountable for their crimes." The Food Safety Accountability Act would establish a new offense in the criminal code by making it unlawful for any person to knowingly introduce or deliver tainted or mislabeled food into the nation's food supply. Among other things, it would allow federal prosecutors to seek prison sentences of up to 10 years. The proposal has been referred to the Senate Judiciary Committee.

FSIS to Hold Public Meeting on Meat, Poultry Inspection Programs

The U.S. Department of Agriculture's (USDA's) Food Safety and Inspection Service (FSIS) has announced that the National Advisory Committee on Meat and Poultry Inspection (NACMPI) will hold a public meeting on September 29-30, 2010, in Washington, D.C., to review issues pertaining to data collection, analysis, response and transparency, and pre-harvest food safety controls.

The committee includes individuals from consumer groups; producers and processors; marketers from the meat, poultry and egg-product industries; government officials; and members of academia. Comments on topics discussed at the meeting must be submitted to FSIS by October 18. *See Federal Register,* September 16, 2010.

Michelle Obama Urges Restaurants to Offer Healthier Fare

First Lady Michelle Obama recently urged restaurants to offer healthier fare to help reduce "obesity-related conditions" in the United States. Speaking before the National Restaurant Association on September 13, 2010, Obama said "that while restaurants are offering more options and families take advantage of them more often, they aren't always the healthiest choices."

Asserting that Americans spend half of their food dollars for meals outside the home, she reportedly called on restaurants to use "creativity to rethink the food you offer, especially dishes aimed at young people." She suggested substituting wheat pasta for white pasta, cutting the amount of butter or cream, serving 1 percent or skim milk, and offering healthy side dishes like apple slices or carrots as the "default" menu choice.

Obama also urged restaurants to actively promote healthy foods to children. "It's not enough just to limit ads for foods that aren't healthy," she said. "It's also going to be critical to increase marketing for foods that are healthy."

Belgian EU Presidency Proposes Labeling Requirements, Registry for Nanomaterials

The Belgian Presidency of the Council of the European Union (EU) has issued five regulatory proposals to respond to consumer and safety needs regarding nanomaterials found in mass-produced consumer products including food, electronics and cosmetics. During a recent workshop in which representatives

from 12 member states met to prepare for a regulatory review of nanomaterials by the end of 2011, Belgian officials proposed that the EU (i) "define the obligation to inform the consumer of the presence of nanomaterials in consumer products"; (ii) "ensure the traceability of the chain so as to be able to return to the source, if necessary" by maintaining a nanomaterials register; (iii) "identify the most appropriate regulatory path at the EU level for risk evaluation and management," (iv) "encourage member states, during this transitory period, to take up the responsibility and draw up integrated national strategies and concrete measures in favor of risk management, information and monitoring," and (v) "regulate the claims made on labels of products containing nanomaterials."

While Paul Magnette, Belgian Minister for Energy, Environment, Sustainable Development and Consumer Protection, told a news source that there was "no need to be alarmed" about the increased use of nanomaterials in consumer products in Europe before their risks are assessed, he did assert that "the current development approach for nanomaterials without prior notification of their presence or labeling of their characteristics or potential toxicity is not acceptable." *See EurActiv.com*, September 15, 2010.

Canadian Health Ministers Agree to Reduce Dietary Salt Standards

Canadian health ministers reportedly met in St. John's, Newfoundland, to discuss several health initiatives, including a plan to reduce the daily recommended intake of sodium to 2,300 mg from 3,400 mg by 2016. According to a September 14, 2010, press release issued by Alberta Health and Wellness Minister Gene Zwozdesky, government officials in attendance considered (i) "a framework for action to promote healthy weights (including reducing childhood obesity)"; (ii) "a commitment to make marketing healthy foods for children a priority"; and (iii) "supporting the call of Canadian Premiers for everyone to lower their personal sodium intake (including encouraging the food industry to meet voluntary targets for sodium reduction in prepared and packaged foods)."

The ministers have reportedly accepted the new target sodium levels, which were the subject of closed-door meetings with Canadian Health Minister Leona Aglukkaq. "Our interim goal is to see the Canadian populations reduce their average sodium intake by one-third by 2016," Aglukkaq was quoted as saying. "We all have a role to play. Government, community leaders and the private sector must work together to create the conditions that make the healthy choices the easier choices. The reduction of sodium in our diets cannot be driven by government alone." *See CBS News* and *The Globe and Mail,* September 14, 2010.

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LITIGATION

Eighth Circuit Allows Parts of MDL Lawsuits Against Aurora Dairy to Proceed

The Eighth Circuit Court of Appeals has affirmed the dismissal of one defendant and several claims in multidistrict litigation (MDL) alleging that a dairy certified as organic and the retailers selling its milk violated state deceptive trade practices laws because the dairy did not comply with national organic program standards. *In re: Aurora Dairy Corp. Organic Milk Mktg. Sales Practices Litig.*, No. 09-2762 (8th Cir., decided September 15, 2010). While finding express and conflict preemption as to those matters dismissed, the court also determined that some claims could survive, depending, on remand, how the district court rules on defendants' motions to strike the consolidated class complaint and the plaintiffs' motion to amend that complaint.

Dismissed outright from the 19 consolidated putative class actions was the company that certified Aurora Dairy as an organic supplier. According to the court, "to the extent state law permits outside parties, including consumers, to interfere with or second guess the certification process, the state law is an 'obstacle to the accomplishment of congressional objectives' of the OFPA [Organic Foods Production Act]." Because the plaintiffs essentially claim that the certifier should have revoked the dairy's certification, the court found it would be impossible for the certifier to comply with federal law "which details the process for revoking certifications" and "any additional state law duty and process to revoke certifications."

Also dismissed as preempted are any claims that the dairy and retailers "sold milk as organic when in fact it was not organic," because these claims also conflict with federal organic law. According to the court, "The class plaintiffs argue the defendants must be both certified and compliant with the underlying requirements in order to comply with OFPA. Viewed in light of the OFPA's structure and purpose, compliance and certification cannot be separate requirements. Compliance with the regulations may lead to certification, and failure to comply with the regulations may lead to nonapproval, suspension, or revocation of certification, . . . but compliance with the regulations is not a separate requirement independently enforceable via state law."

The court remanded for further proceedings state law challenges to the facts underlying certification, that is, those state law claims unrelated to the decision to certify or to certification compliance. Noting that "the argument for broad preemption of state consumer protection, fraud, and tort claims finds no support in the OFPA's express preemption provision," and finding that Congress "lacked intent to give preclusive effect" to any particular method of satisfying OFPA's provisions, the court listed the types of claims that could "fall outside the scope of preemption." Those claims include (i) misrepresentations as to how the dairy's cows were raised and fed; (ii) suppression or omission of material facts about the company's milk production, i.e., the dairy cows were not raised at pasture; (iii) false advertisements touting the milk and milk products as antibiotic and hormone free; and (iv) false statements about the cows' humane treatment.

The court instructed the trial court on remand to first consider the motions that were denied as moot when the lower court granted the defendants' motions to dismiss the consolidated class complaint in its entirety. Then, the trial court was instructed to "next consider which of the class plaintiffs' claims survive preemption in accordance" with the appellate court's opinion.

According to a news source, The Cornucopia Institute, which promotes "family scale farming," contends that the U.S. Department of Agriculture (USDA) "could probably be challenged in court based on this decision." The institute reportedly contends that the national organic program has been mismanaged, citing minimal sanctions imposed on the dairy as part of a consent agreement after USDA proposed revoking the company's organic certification in 2007. A spokesperson for one of the defendants apparently expressed pleasure with the court's ruling that "the dairy products were properly labeled as organic." *See The Associated Press*, September 15, 2010; *Cornucopia Institute Press Release*, September 16, 2010.

Consumer Fraud Claims Against Manufacturers of Foods with Fiber Dismissed as Preempted

A federal court in Illinois has dismissed claims that companies failing to disclose that the fiber in their snack-bar and yogurt products is "non-natural" chicory root-based inulin, which allegedly lacks the same health benefits as "natural" fiber, have violated state consumer fraud laws. *Turek v. General Mills, Inc.*, No. 09 C 7038 (U.S. Dist. Ct., N.D. Ill., E. Div., decided September 1, 2010). According to the court, the plaintiff's claims are expressly preempted by the federal Nutritional Labeling and Education Act (NLEA) because they would impose requirements under state law that are not identical to federal law requirements. The products at issue are labeled with statements about the percent of daily fiber they contain or grams of fiber provided per serving.

Discussing the application of preemption provisions in various federal laws, the court also sets out all of the federal regulations pertaining to fiber in foods. The court concludes, "plaintiff wants to change the labeling on defendants' products because she questions the nutritional science behind current disclosure requirements and not because of any fraudulent statements made for the purposes of commercial marketing. . . . Clearly, new requirements that direct manufacturers to label certain fiber nutrients as 'non-natural' and to disclose alleged lack of health benefits are non-identical to and materially different from the current NLEA requirements that do allow inulin to be labeled simply as 'fiber' and do not require manufacturers to disclose any lack of health benefits." Thus, the court granted defendants' motion to dismiss for lack of subject-matter jurisdiction.

Juice Maker Charges FTC with Exceeding Authority in Regulating Health Claims

POM Wonderful LLC has filed a complaint for declaratory relief in a D.C. federal court against the Federal Trade Commission (FTC), alleging that it (i) exceeded its authority in requiring Food and Drug Administration (FDA) pre-approval of health-related claims on food products, that is, those claims stating that a

product treats, mitigates or prevents disease, and substantiation of non-disease-related claims with two "well-controlled" clinical studies; (ii) violated advertisers' First and Fifth Amendment rights by requiring compliance with these new standards; and (iii) failed to comply with notice and comment rulemaking procedures in establishing the standards. *POM Wonderful LLC v. FTC*, No. 1:10-cv-01539 (U.S. Dist. Ct., D.C., filed September 13, 2010).

According to the complaint, FTC has advised POM Wonderful that it must comply with standards recently announced in consent orders against other companies and now apparently applicable to the food and dietary supplement industry as a whole. Additional information about one of those orders appears in **Issue 356** of this *Update*. POM Wonderful contends that these standards apply "regardless of whether or not the [advertising] claims are true or supported by competent, reliable scientific evidence." Calling the standards a significant departure from FTC's prior regulation of "deceptive" speech or advertising only, the plaintiff alleges that FTC has exceeded its statutory authority and is "encroaching upon the exclusive authority reserved for the FDA."

POM Wonderful also alleges that it has spent "tens of millions of dollars in funding independent research and in establishing a research program to better understand and promote the nutritional qualities and health benefits of pomegranates. The new FTC rules essentially bar POM from discussing or disclosing the results of its research and the benefits of its products," and thus, the agency has violated its free speech rights. The plaintiff characterizes this agency action as a prior restraint on truthful speech. The plaintiff seeks declarations that the new requirements are invalid, the agency exceeded its statutory jurisdiction, requiring FDA pre-approval violates First and Fifth Amendment rights, and FTC failed to comply with rulemaking procedures and has acted arbitrarily, capriciously and contrary to law. The company also seeks an award of costs.

Meanwhile, a federal jury in California has reportedly rendered a verdict against a POM Wonderful competitor in a lawsuit contending that Welch's misled consumers by labeling its product "100% Juice White Grape Pomegranate." POM Wonderful brought the litigation under the Lanham Act, claiming that the false and deceptive label on Welch's product, which contains mostly inexpensive apple and white grape juices, along with color and flavor enhancers, was designed to make consumers believe that the product contained a significant amount of pomegranate juice. It is unclear whether any damages were awarded. POM Wonderful President Matt Tupper was quoted as saying, "The primary objective of our lawsuit against Welch's was to raise awareness of this widespread practice in the juice industry, and we are happy to have achieved this important goal." *See PR Newswire*, September 15, 2010.

Class Action Filed Against Egg Producers in *Salmonella* Outbreak

A putative class action has apparently been filed in a federal court in Illinois by six named plaintiffs who allegedly became ill after consuming *Salmonella*-tainted eggs from Wright County Egg and Hillandale Farms in Iowa. The plaintiffs' attorney has reportedly been given permission to inspect the farms

for evidence. According to a news source, the plaintiffs allege that the companies' negligence is responsible for the outbreak and suggest that more than the known 1,500 individuals sickened by the contaminated eggs could be class members.

In a related development, news sources report that Wright County Egg had dozens of positive results for *Salmonella* from swabs taken on conveyor belts and in other facility areas as early as 2008 and failed to notify local, state or federal officials. Animal safety experts reportedly called such contamination "surprising" and suggested that repeated positives indicate the company was not "getting to the root cause of what the problem is." The test-result information was apparently made public in records provided to Congress which is investigating the outbreak. *See The New York Times*, September 14, 2010; *The Associated Press* and *USA Today*, September 16, 2010.

OTHER DEVELOPMENTS

UCS Survey Claims Special Interests, Public Officials Interfere with Food Safety

The Union of Concerned Scientists (UCS) has released a report, "**Driving the Fox from the Henhouse: Improving Oversight of Food Safety at the FDA and USDA**," that provides the results of a March 2010 survey of 8,000 food-safety agency employees. Conducted at Iowa State University's Center for Survey Statistics, the questionnaire solicited responses from 1,700 workers at the Food and Drug Administration (FDA) and U.S. Department of Agriculture (USDA), who evidently reported that corporate and government interference "remains strong" in agency decision-making.

The report highlights the 54 percent of respondents who reported "that the weight agencies give to *political interests*… is 'too high,'" as well as the 34 percent who made similar statements about business interests. The findings also note that approximately one-quarter of respondents claimed to have "frequently or occasionally" experienced situations where either corporations or members of Congress "have forced the withdrawal or significant modification of [an agency] policy or action designed to protected consumers or public health." In addition, 59 percent of participants with advanced degrees allegedly "disagreed or strongly disagreed that they are currently 'allowed to speak to the public and the news media about my scientific research findings, regardless of the level of controversy on the topic.'"

According to UCS's analysis, "interference with science can range from the explicit (but rare) rewriting of scientific conclusions to subtler but more common abuses such as the selective use of data or the editing of agency documents so as to weaken them. Survey respondents also reported that public health had been harmed by corporate influence in particular—either through the withholding of needed information from government or through industry's lobbying to withdraw or modify certain agency actions." The report suggests that congressional reforms of the food safety system should include safeguards to "make such abuses of science more difficult to perpetrate and easier to discover."

Noting that foodborne illness has increased in recent years, the report also calls for "[e]xecutive branch reforms—aimed at protecting government scientists, increasing transparency and accountability, and restoring scientific integrity—. . . to combat the political and corporate interference" at these agencies. As one UCS spokesperson told reporters, "What we found is that action is needed to curtail interference in science, both political and that driven by the private sector. We have two very different agencies give very identical responses, and this suggests the need for broad reform." *See The Los Angeles Times,* September 14, 2010.

White Paper Addresses Animal Disease Traceability Debate

The National Institute for Animal Agriculture (NIAA) and the U.S. Animal Health Association (USAHA) have prepared a **white paper** based on the Joint Strategy Forum on Animal Disease Traceability held August 30-31, 2010, in Denver, Colorado. Responding to the U.S. Department of Agriculture's (USDA's) "new, flexible framework for animal disease traceability," the forum reportedly included attendees from 43 states, four tribes, 33 state health agencies, 38 industry organizations, eight universities, and 34 food producers and companies. It focused on the Traceability Regulation Working Group's preliminary directions "in the areas of official identification, exemptions, performance standards, compliance components, recordkeeping requirements, and proposed timelines."

According to a September 10, 2010, press release, the paper specifically covers forum discussions related to (i) "the inclusion of identifying feeder cattle after a workable system is in place for adult cattle"; (ii) "the use and relevance of 'Brite' tags, back tags and brands"; (iii) "reasonable timelines and benchmarks for states to implement a traceability system"; (iv) "how to accommodate the needs of different species"; (v) "uniform data collection among states"; (vi) "the use of official '840' eartags for U.S. born animals"; and (vii) "education and outreach to animal producers, handlers, marketers and processors in regard to new requirements." NIAA and USAHA expect USDA to publish a proposed rule on animal disease traceability in April 2011 with a 60- to 90-day public comment period.

Rudd Center Issues Policy Guide on Obesity

The Yale Rudd Center for Food Policy and Obesity has released a fall 2010 **paper** highlighting obesity prevention policies with "the potential for the greatest impact." The center's recommendations relate to preschools and schools, consumption of sugar-sweetened beverages, marketing to children, weight bias, food deserts, and ongoing surveillance of these efforts.

Among other guidelines, the paper urges legislators, regulators and other public health officials to (i) prohibit the sale of sugar-sweetened beverages and whole milk in preschools; (ii) restrict school sales of competitive foods to those which meet standards set by the Institute of Medicine, as opposed to the federal government; (iii) raise the cost of sugar-sweetened beverages by 10 to 20 percent; (iv) remove materials with branded foods from schools, preschools and all government properties frequented by children; and (v) require children's meals to meet nutritional standards if they include incentives. According to the Rudd Center, "All of

these strategies have been considered by state and local policy makers around the country and, in some cases, have already become law."

SCIENTIFIC/TECHNICAL ITEMS

Scientists Learn More About Foods' Effect on Brain, Activists Call for Government Action

Writing in the *New Scientist*, a Washington, D.C.-based journalist recently discussed the latest research on the effect of "junk food," or foods high in sugar, fat and salt, on animal and human brains and behavior. Bijal Trivedi reports, "Some say there is now enough data to warrant government regulation of the fast food industry and public health warnings on products that have harmful levels of sugar and fat." According to Trivedi, studies have shown that some foods appear to have an addictive effect similar to cocaine addiction on rat brains and that two routes to "food addiction" could be linked to overactive and underactive dopamine systems: "one if you find food more rewarding than the average person, and another if it isn't rewarding enough."

Trivedi discusses the consideration that tobacco activist John Banzhaf has been giving to "food addiction"; he apparently believes that sufficient evidence exists for the U.S. Office of the Surgeon General to issue a report on the subject, just as it issued a report on nicotine addiction in 1988. According to Banzhaf, "At that point people begin to accept it." He apparently concedes that the issue is not clear cut, stating, "Fast food isn't a [single] chemical so you can't meaningfully ask the question 'Is a triple bacon cheeseburger addictive?'" Banzhaf suggests that the focus would have to be narrowed to specific quantities of sugar, salt and fat.

A former food company executive who now serves as a visiting fellow at the Hudson Institute reportedly believes that individual behavior is harder to change than corporate behavior. Claiming that "it's about getting calories off the streets," Hank Cardello has apparently suggested that tax policies providing a break for companies that produce low-calorie foods could reduce the overall calories consumed by Americans without unduly burdening fast-food companies.

Meanwhile, Ohio State University Professor Gary Wenk discusses in *Seed Magazine* the foods and ingredients that can either stimulate or depress brain function. According to Wenk, humans share an evolutionary history with the plants and animals they eat, thus "the chemicals each meal contains may alter how your neurons function and, therefore, how you feel or think." He notes the euphoria produced in newborn mammals "after their first taste of their mother's milk," the psychoactive properties of spices such as nutmeg and the ingredients in chocolate that "resemble the active ingredient in marijuana" as well as have an estrogen-like effect.

He concludes, "because of your shared evolutionary history with the plants and animals on this planet, when you consume them you risk having their chemicals

affect how you feel and even how you think. The degree to which they influence your cognitive functioning depends upon how easily they can achieve an adequate concentration in your brain." *See New Scientist*, September 4, 2010; *Seed Magazine*, September 13, 2010.

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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.