Shook, Hardy & Bacon L.L.P.

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FOOD & BEVERAGE LITIGATION UPDATE

CONTENTS

LEGISLATION, REGULATIONS AND STANDARDS

EC Seeks Data on Nanomaterials in Agri-Food-Feed

The European Commission-Joint Research Centre and Institute of Food Safety of the University of Wageningen in The Netherlands, at the request of the European Food Safety Authority, have issued a two-part survey regarding nanomaterials in agri-food-feed applications that aims to collect information about (i) the current and potential future use of nanomaterials or nanotechnology in agri-food-feed applications, and (ii) regulation, safety assessment and reporting of nanomaterials in different countries.

The **first** part of the survey focuses on the "Production, Use, Import, Research and Development of Nanomaterials in Agri-Food-Feed Applications" and is addressed to (i) companies that produce, import or use the materials in such applications, and (ii) research institutes, research and development departments of industry, or others active in research and development of materials or products containing nanomaterials in agri-food-feed applications.

The **second** part of the survey focuses on the "Regulation and Safety Assessment of Nanomaterials in Agri-Food-Feed Applications" and is targeted to individuals identified as experts in the field who possess "good knowledge of legislation, reporting and safety assessment of nanomaterials in EU and non-EU countries, including authorities, consultants, companies producing in or exporting to non-EU countries and researchers." The agencies will accept submissions until November 4, 2013.

Telluride SSB Tax Campaign Heats Up Ahead of Vote

According to media sources, the campaigns for and against a proposed 1-cent per ounce excise tax on all sugar-sweetened beverages (SSBs) sold in Telluride, Colorado, have stepped up their efforts in advance of November voting. Primarily funded by a Houston-based hedge fund, which donated $50,000 to the cause, "Kick the Can Telluride" has reportedly taken its lead from similar campaigns in El Monte, California, and Richmond, Virginia, and urged local voters to back ballot measure 2A, claiming that the estimated annual revenues of $200,000 would support youth health initiatives now funded by three-year U.S. Department of Education Physical Education Program grants.

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"If passed, the measure would be the first town-level excise tax on sugar-sweetened beverages in the United States," reports *The* (Telluride) *Watch* in an October 16, 2013, article about the debate.

Meanwhile, the Colorado Beverage Association has apparently joined with local business owners in countering the proposal with its own "No on 2A" campaign. In particular, business owners have expressed concern that even with a promised 10-percent reimbursement on the excise taxes they pay, compliance with the proposed regulations would involve expensive updates to store computer infrastructure and possibly discourage tourists from shopping in town. "Folks visiting from out of town that land in Montrose might hear about Telluride's soda tax and might be persuaded to do all their grocery shopping for their ski vacation in Montrose, instead of right here," one owner was quoted as saying. *See Telluride Daily Planet,* October 16, 2013.

LITIGATION

No Reasonable Consumer Would Be Fooled by Butter Spread Labels, Court Rules

A California appeals court has affirmed the dismissal with prejudice of a putative class action alleging that Kroger Corp. misled consumers by failing to comply with federal and state law requirements for labeling its Challenge® spreadable butter products. *Simpson v. The Kroger Corp.*, No. B242405 (Cal. App. Ct., decided September 25, 2013).

The court found that the labeling requirements of the state Milk and Milk Products Act of 1947 were not identical to federal labeling requirements, and thus claims based on the Act were preempted. And while the court found that the plaintiff's mislabeling claims under the state Sherman Food, Drug and Cosmetic Law were not preempted, it ruled that the trial court did not abuse its discretion in denying leave to amend the complaint, because "as a matter of law, plaintiff has failed to demonstrate that a reasonable consumer would be misled by the labels on the products."

Noting that the plaintiff's theories shifted from the original complaint to the amended complaint and the over the course of appellate briefing, the court detailed the various federal and state labeling laws and showed how they either differ or are the same. It also described how the labels clearly state that the products are "Spreadable Butter with Canola Oil" or "Spreadable Butter with Canola & Olive Oil." The court further observed that the oil ingredients are included in the ingredients list on the nutrition panel. Thus, the court concluded, "The labels on the products here clearly informed any reasonable consumer that the products contain both butter and canola or olive oil. This was plain on both the top and side panels of the tubs in which the products are sold."

Court Dismisses Claims About Inaccurate Calorie Counts

A federal court has dismissed without prejudice the first amended complaint filed in a putative class action alleging that Weight Watchers International misleads consumers by misrepresenting the number of calories in its line of diet ice cream bars. *Burke v. Weight Watchers Int'l, Inc.*, No. 12-6742 (U.S. Dist. Ct., D.N.J., decided October 17, 2013). While the court held that it was premature to decide whether the plaintiff had standing to bring claims as to diet bars she did not purchase, persuaded by other courts that this was more properly decided at the class certification stage, it agreed with the defendants that the state law-based claims were preempted.

The Food and Drug Administration has set forth the five methods that can be used to calculate the total number of calories in a food product labeled with that information. In the court's view, "Burke's claims are preempted because she has failed to plead two separate things. First, she has not pled that she tested the Ice Cream Candy Bar using every one of the Five Methods. Second, she has not pled that every one of the tests results exceeds the calorie value on the Ice Cream Candy Bar label by more than 20%. Instead, Burke cites generally to laboratory tests performed 'in accordance to, and in compliance of, FDA guidelines, including 21 C.F.R. 101.9.' Burke's allegations are insufficient to allege a violation of the FDCA [Food, Drug, and Cosmetic Act]. This conclusion goes not just for the Ice Cream Candy bar, but also for all of the other Diet Bars, whose calorie content Burke apparently did not measure."

The court refused to strike a segment of the "Today Show," which apparently reported that an investigation showed that one Weight Watchers Ice Cream Candy Bar contained more calories than listed on its label. According to the court, the issue was moot, but it noted its inclination to strike it if the plaintiff chose to file a second amended complaint, on the ground that the allegations about the segment "are potentially inflammatory, and confusing and collateral."

Claims Pared in Consumer Fraud Suits Against Wallaby Yogurt and Trader Joe's

A federal court in California has dismissed certain claims, with leave to amend, in putative class litigation challenging various aspects of labels for Wallaby Yogurt Co. and Trader Joe's Co. food products; it has refused to abstain from deciding the matters under the primary jurisdiction doctrine. *Morgan v. Wallaby Yogurt Co., Inc.*, No. 13-296, *Gitson v. Trader Joe's Co.*, No. 13-1333 (U.S. Dist. Ct., N.D. Cal., orders entered October 10, 2013). Both suits include claims, among others, that the companies mislead consumers by using "evaporated cane juice" instead of "sugar" on their product labels.

In *Wallaby*, the court rejected the defendant's argument that the plaintiffs lacked standing to bring their claims because they had not plausibly alleged actual injury. Wallaby apparently said, "Plaintiffs paid for food products. They consumed the products without incident or physical injury. The goods were not tainted, spoiled, adulterated, or contaminated. They do not allege that the ingredients were not fully disclosed on the side panel or that the nutrition information was false. Nor do they dispute that the *products* they purchased and consumed would have been *exactly the same* even if the labels had been different." According to the court, this argument misconstrues the allegations. "The plaintiffs' point is that they were misled, not that the products would somehow be different merely by placing a different label on the packaging. Wallaby's argument leads to the untenable conclusion that consumers have no legal recourse for intentionally misidentified products."

The court agreed with the defendant, however, that the plaintiffs failed to adequately plead fraud as to certain claims, noting "While the plaintiffs claim that they would not have purchased Wallaby's products had they known that the products 'contained sugar or dried cane syrup,' that claim is contradicted by the fact that the plaintiffs nonetheless purchased products despite the fact that the sugar content is listed right next to the ingredients list."

The *Trader Joe's* complaint presented the court with some challenges in parsing which claims pertained to which products, whether any allegations were made as to products just mentioned as having been purchased and how to address allegations as to unspecified products. The court found that the pleadings as to "unspecified products," labeled with "evaporated cane juice," containing added preservatives or artificial colors, or represented to be a form of milk without satisfying the standard of identity, failed to meet the heightened pleading requirements of Federal Rule of Civil Procedure 9(b). The "no additive" claims as to products the plaintiffs purchased were also insufficiently pleaded, with the court observing that the relevant product labels do not make representations relevant to these allegations.

The court rejected out of hand the "cane juice" and "soy milk" claims because they fail the reasonable consumer test. According to the court, the product labels at issue plainly disclose the sugar content and the soy milk product labels plainly state that they are "LACTOSE & DAIRY FREE" and are alternatives "to dairy milk." The court said, "This is one of those rare cases where the accused label itself makes it impossible for the plaintiff to prove that a reasonable consumer is likely to be deceived." The court further granted the defendant's motion to strike any allegations about "natural" or "all natural," finding them immaterial, because the plaintiffs failed to allege that the products make these representations. While the court allowed the plaintiffs to amend their complaint, it dismissed the cause of action for restitution with prejudice.

Federal Court Refuses to Stay Three Suits Challenging "100% Natural" Labels

A federal court in California has denied the request of General Mills, Inc. to stay the proceedings in three putative class actions alleging that it misleads consumers by promoting various products as "100% Natural" given ingredients that are genetically modified or highly processed, such as high-fructose corn syrup, high-maltose corn syrup and maltodextrin. *Rojas v. General Mills, Inc.*, No. 12-5099 (U.S. Dist. Ct., N.D. Cal., order entered October 9, 2013); *Bohac v. General Mills, Inc.*, No. 12-5280, and *Janney v. General Mills, Inc.*, No. 12-3919 (U.S. Dist. Ct., N.D. Cal., orders entered October 10, 2013).

So ruling, the court rejected the defendant's request that it apply the primary jurisdiction doctrine, finding that (i) the issue of whether a reasonable consumer would be misled by the company's product promotions was within the court's purview, and (ii) it did not appear the U.S. Food and Drug Administration was inclined to decide anytime soon what the term "natural" encompasses.

In *Rojas*, the court granted in part the motion to dismiss as to claims regarding products the plaintiff did not purchase, because the elements of his fraud-based causes of action were not sufficiently pleaded as to these products. It also granted the motion as to causes of action based on advertising or the company's Website because the plaintiff failed to identify anything other than what he read on the product labels. Still, the court granted the plaintiff leave to amend as to the causes of action dismissed. Additional details about this lawsuit appear in Issue **456** of this *Update*. Information about *Janney*, which was filed by the Center for Science in the Public Interest, appears in issues **448** and **484** of this *Update*.

Florida Beer Consumer Claims AB Misleads About Origin of Beck's Beer

A Florida resident has filed a complaint on behalf of a putative class against Anheuser-Busch Cos. (AB), claiming that since the company began producing Beck's Beer in the United States in 2012, it has misled consumers into believing that the product is still imported from Germany where it was made with quality ingredients for more than 225 years. *Marty v. Anheuser-Busch Cos., LLC*, No. 13-23656 (U.S. Dist. Ct., S.D. Fla., filed October 9, 2013).

According to the complaint, external packaging material does not indicate that the product is brewed in the United States with domestic ingredients, including Missouri River water. Rather, the external packaging for six- and 12-packs allegedly states that the product is "German Quality" beer "brewed under the German Purity Law of 1516" and that it "Originated in Bremen, Germany." Individual bottles, however, state "in obscure white text on a silver

background, 'Product of USA—Brauerei Beck & Co.—St. Louis, MO.—12 FL. OZ.'" The plaintiff alleges that the bottle labeling cannot be seen before 12-pack containers are purchased and cannot be seen in a six-pack "unless a bottle is removed and examined. . . . Reasonable consumers, including Plaintiffs, cannot or do not read the fine print on the bottles until after they have already purchased Beck's Beer. Even then, the print on the bottle is ambiguous and difficult to read." The plaintiff further contends that retailers, restaurants and bars are also confused about the beer's origins, treating it as a more expensive import.

Seeking to certify a nationwide class and Florida subclass of Beck's Beer purchasers, the plaintiff alleges unjust enrichment and violation of Florida's Deceptive and Unfair Trade Practices Act. He requests injunctive relief, damages, unjust benefits, interest, attorney's fees, and costs.

Monsanto GE Wheat Cases Consolidated Before Kansas MDL Court

The Judicial Panel on Multidistrict Litigation (JPML) has ordered the transfer of five cases brought by wheat farmers who allege economic injuries due to lower wheat prices, import restrictions and increased production costs after genetically engineered (GE) wheat was discovered in an Oregon farmer's field; pre-trial matters will be heard by a multidistrict litigation (MDL) court in Kansas. *In re Monsanto Co. GE Wheat Litig.*, MDL No. 2473 (J.P.M.L., decided October 16, 2013).

According to the court, the actions involve common questions of fact, and centralization in Kansas "will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. All actions share factual questions arising from Monsanto's conduct with respect to the development and field testing of genetically-engineered [sic] 'Roundup Ready' wheat from 1998 through 2005, and the alleged discovery of the Roundup Ready herbicide-resistant gene in wheat plants on an Oregon farm in or around April or May of 2013."

Prop. 65 Suit Alleging Failure to Warn About Lead in Snack Bars Will Not Be Stayed

A California state court has denied the defendant's request that it stay a case alleging that the company failed to warn consumers of the presence of lead in its snack bars in contravention of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Prop. 65). *Envtl. Research Ctr., Inc. v. Clif Bar & Co.*, No. 13-532935 (Cal. Super. Ct., San Francisco Cnty., minutes entered October 16, 2013). Additional details about the suit appear in Issue 492 of this *Update*.

Clif Bar & Co. sought the stay pending the outcome of an appeal from an August 2013 determination that Dole Food Co., Gerber Products Co. and other food makers were not required to warn consumers about lead occurring naturally in their products at levels lower than the state threshold. According to the company, it would waste time and money to proceed in a case that has already cost millions to defend, when the appeals court's ruling is likely to affect the outcome of the dispute. Noting that the plaintiff was unlikely to do more than conduct limited discovery while the issue is pending before the appeals court, the court declined to issue the stay. *See Law360*, October 16, 2013.

New York High Court to Review NYC Soda-Size Restrictions

According to a news source, the New York Court of Appeals, the state's highest court, has agreed to hear New York City's appeal of a decision striking down a board of health rule that would have imposed caps on the size of sugar-sweetened beverages sold at certain venues. Details about the intermediate appellate court opinion affirming a lower court's invalidation of the rule under separation-of-powers principles appear in Issue 492 of this *Update*. Mayor Michael Bloomberg responded to the court's ruling by stating, "The related epidemics of obesity and diabetes are killing at least 5,000 New Yorkers a year and striking hardest in black and Latino communities and low-income neighborhoods. New York City's portion cap rule would help save lives, and we are confident the appeals court will uphold the Board of Health's rule." The case is expected to be argued after January 1, 2014. *See Law360*, October 17, 2013.

Non-Profit Sues NYC Mayor, Seeks Food Regulation Documents

Keep Food Legal, a Washington, D.C.-based non-profit, has filed a petition under the New York Freedom of Information Law (FOIL), seeking an order compelling the office of New York City Mayor Michael Bloomberg to respond to its allegedly unaddressed requests for "records and documents on various, proposed, or enjoined food-related regulations or policies to which the Mayor's Office had some relationship, influence, or administrative role." *Keep Food Legal v. Office of the Mayor*, No. n/a (N.Y. Sup. Ct., N.Y. Cnty., filed October 4, 2013). The petition outlines the requests that it made under FOIL since July 2012 and alleges that the city failed to respond within statutory deadlines.

According to Keep Food Legal's Website, the materials sought relate to "the development of New York City's most restrictive food laws and regulations, including the city's trans fat ban; mandatory menu labeling law; restaurant letter grade system; ban on providing food meant for the homeless and less fortunate; restriction on urban gardens and farmers markets; and currently enjoined soda ban." Executive Director Baylen Linnekin said of the lawsuit,

"Keep Food Legal believes that New York City residents and Americans around the country who support a person's right to make their own food choices want and deserve to know which activists, groups, and government bodies in New York City and around the country—including in Washington—have been involved in shaping the Bloomberg administration's food policies."

The organization refers to itself as a nationwide membership organization with limited resources; its board includes Cornell University's Brian Wansink and Reason.com Editor Nick Gillespie. Its communications director, Jackson Kuhl, formerly served as the senior producer and sci-tech producer for FOXNews.com. Linnekin frequently takes a libertarian approach to food regulatory issues and has spoken before Federalist Society, American Enterprise Institute and Heritage Foundation audiences. *See Keep Food Legal News Release*, October 7, 2013.

Jensen Brothers to Enter Guilty Pleas in Cantaloupe-Linked *Listeria* Outbreak

Eric and Ryan Jensen, who own the Colorado cantaloupe farm linked to a deadly 2011 *Listeria* outbreak have reportedly indicated to a federal court that they intend to plead guilty to the criminal misdemeanor charges brought against them. Additional information about the charges appears in Issue **498** of this *Update*. The six misdemeanor charges of adulteration of a food and aiding and abetting carry potential jail terms of one year and a fine per charge of $250,000. The Food and Drug Administration and Centers for Disease Control and Prevention reportedly found that the brothers failed to adequately clean their cantaloupes after changing their produce-cleaning system and that their actions were responsible for the deaths of 33 consumers. *See NBCNews.com*, October 16, 2013.

OTHER DEVELOPMENTS

Rudd Center/RWJF Examine Athletes' Food Endorsements

Yale University's Rudd Center for Food Policy and Obesity and the Robert Wood Johnson Foundation (RWJF) recently conducted a **study** concluding that "the majority of the food and beverage brands endorsed by professional athletes are for unhealthy products like sports beverages, soft drinks, and fast food." Marie Bragg, et al., "Athlete Endorsements in Food Marketing," *Pediatrics,* November 2013. Noting that previous research by public health advocates has criticized the use of athletes' endorsements in food marketing campaigns for often promoting unhealthy food and sending mixed messages to youth about health, Rudd Center researchers state that theirs is the first study to examine the extent and reach of such marketing.

The researchers reportedly selected 100 professional athletes for study based on *Businessweek's* 2010 Power 100 report, which ranked athletes according to their endorsement value and prominence in their sport. Information about each athlete's endorsements was gathered from the Power 100 list and AdScope, an advertising intelligence service, and sorted into categories: food/beverages, automotive, consumer goods, service providers, entertainment, finance, communications/office, sporting goods/apparel, retail, airline, and other. The nutritional quality of the foods featured in athlete-endorsement advertising was assessed, along with the marketing data.

Of the 512 brands associated with these athletes, food and beverage brands were the second largest category of endorsements behind sporting goods, observed the researchers. "We found that LeBron James (NBA), Peyton Manning (NFL), and Serena Williams (tennis) had more food and beverage endorsements than any of the other athletes examined," said lead author Marie Bragg.

The researchers also found that (i) "sports beverages were the largest individual category of athlete endorsements, followed by soft drinks, and fast food"; (ii) "79 percent of the 62 food products in athlete-endorsed advertisements were 'energy-dense and nutrient poor'"; and (iii) "93 percent of the 46 advertised beverages only had calories that came from added sugar."

"The promotion of energy-dense, nutrient-poor products by some of the world's most physically fit and well-known athletes is an ironic combination that sends mixed messages about diet and health," observed Bragg. She and her co-authors assert that professional athletes should be aware of the health value of the products they are endorsing, and should use their status and celebrity to promote healthy messages to youth. *See Rudd Radar Press Release,* October 7, 2013.

Facebook's Decision to Relax Privacy Rules for Teenagers Under Fire

Led by the Center for Digital Democracy (CDD), a coalition of public health, media, youth, and consumer advocacy groups has written a **letter** to the Federal Trade Commission (FTC), asking the agency to review Facebook's recent decision to relax its privacy protections for teenage users. According to an October 20, 2013, press release, the letter raises concerns about the social networking site's new terms of service agreement, which, among other things, apparently gives Facebook "permission to use, for commercial purposes, the name, profile picture, actions, and other information concerning its teen users." It also objects to a new condition of service that asks 13-to-17-year-olds to "represent that at least one of your parents or legal guardians has also agreed to the terms of this section (and the use of your name, profile picture, content, and information) on your behalf."

In particular, the coalition argues that these proposed changes "would expose teens to the same problematic data collection and sophisticated ad-targeted practices that adults currently face." As CDD Executive Director Jeff Chester further explained to the media, "It's all about monetization and being where the public dialogue is. To the extent that Facebook encourages people to put everything out there, it's incredibly attractive to Facebook's advertisers."

"The FTC, which has acknowledged that teens require special privacy safeguards, must act now to limit the ways in which Facebook collects data and engages in targeted marketing directed at adolescents," concludes the letter. "It should prevent Facebook from imposing unfair terms on teens and their parents that place them in a position of having to say they secured informed, affirmative consent from a parent or guardian." *See The New York Times,* October 16, 2013.

Mondelēz to Launch "Smart Shelves" in 2015

Mondelēz International reportedly intends to introduce "smart shelves" whose sensors first identify the age and gender of grocery shoppers and then deliver targeted ads via video display. "Knowing that a consumer is showing interest in the product gives us the opportunity to engage with them in real-time," Mondelēz CIO Mark Dajani said in a recent *Wall Street Journal* article. Dajani noted that the smart shelves will respect consumers' privacy because no photos, video or personal information will be captured. *See Wall Street Journal,* October 11, 2013.

SCIENTIFIC/TECHNICAL ITEMS

Study Claims Atmosphere Influences Whiskey Taste

A recent study has **concluded** that multi-sensory environmental factors play an important role in how consumers perceive the taste of whiskey. Carlos Velasco, et al., "Assessing the influence of the multisensory environment on the whisky drinking experience," *Flavour,* October 2013. Oxford University researchers apparently asked 441 volunteers to sample the same glass of whiskey while visiting each of three rooms engineered to evoke the smell of grass, the taste of sweetness and the texture of wood. Participants then reportedly rated the whiskey as (i) being grassier on the nose when they visited the room decorated with artificial turf and infused with the smell of fresh-cut grass and the sounds of sheep, (ii) tasting sweet when they visited the room with a sweet scent that was also awash with red light and high-pitched "tinkling" sounds; and (iii) having a woody aftertaste when they visited the room decorated like a cedar forest. The study also noted that participants generally preferred the taste of the whiskey in the wooded "finish" room.

"That was kind of the genius of the thing, that they carried just one glass," explained a study co-author in an October 13, 2013, *NPR* article. "What struck people when they were coming out of the woody, final room, was that they could look back at their scorecard and see that they'd been given the very same drink in the other hand a very different rate, and they knew that all that had changed was that they had walked from one room to another."

Discovery of New Botulism Toxin Prompts Bioterrorism Fears

Two new studies recently published in the *Journal of Infectious Diseases* have reportedly identified for the first time in more than 40 years a new strain of *Clostridium botulinum,* prompting debate over whether the genetic sequences needed to reproduce the toxin should be made available to the public despite concerns that the information could pose a security risk. Jason Barash and Stephen Arnon, "A Novel Strain of *Clostridium botulinum* That Produces Type B and Type H Botulinum Toxins," *Journal of Infection Diseases,* October 2013. Nir Dover, et al., "Molecular Characterization of a Novel Botulinum Neurotoxin Type H Gene," *Journal of Infection Diseases,* October 2013.

According to an October 10, 2013, article in *CIDRAP News,* the California Department of Public Health researchers who discovered botulinum neurotoxin type H (BoNT/H) using an infant botulism case have declined to release their data until an antitoxin has been developed. They apparently arrived at their decision after consulting with several government agencies as well as the journal's editors, who in turn exempted the researchers from the usual requirement that they submit gene nucleotide sequences to the International Nucleotide Sequence Databases before publication.

At the same time, however, David Relman, chief of infectious diseases with the VA Palo Alto Health Care System and principle investigator with the Stanford University School of Medicine, notes in a concurrent editorial that the BoNT/H case recalls the controversy surrounding *Nature's* decision to publish research detailing the creation of a human-contagious form of avian flu. In particular, he suggests that the scientific community needs to invest in a mechanism to mitigate the risk of such studies while allowing important research to continue. David Relman, "'Inconvenient truths' in the pursuit of scientific knowledge and public health," *Journal of Infectious Diseases,* October 2013.

"I hope that this discovery forces policy-makers, scientists, and other members of the general society to confront the reality of increasingly frequent and consequential risks that arise from work in the life sciences, and develop more robust strategies for risk mitigation," Relman told *CIDRAP News.* "I am quite worried that the challenges and complexities of developing such strategies has caused many scientists, science policy-makers and others in government

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to turn away, and either proclaim that the risks are not real, or that we have no such mechanisms for limited communication and therefore that we should stop working on this."

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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.