Shook, Hardy & Bacon L.L.P.

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FOOD & BEVERAGE LITIGATION UPDATE

CONTENTS

LEGISLATION, REGULATIONS AND STANDARDS

FDA Opens Comment Period on GRAS Status of *Trans* Fats

The U.S. Food and Drug Administration (FDA) "has tentatively **determined** that partially hydrogenated oils (PHOs), which are the primary dietary source of industrially produced *trans* fatty acids, or *trans* fat, are not generally recognized as safe (GRAS) for any use in food based on current scientific evidence establishing the health risks associated with the consumption of *trans* fat, and therefore that PHOs are food additives." If the agency finalizes this determination, "food manufacturers would no longer be permitted to sell PHOs, either directly or as ingredients in another food product, without prior FDA approval for use as a food additive." It would not, however, affect the *trans* fat that occurs naturally in small amounts in meat and dairy products.

Announcing the initiative, FDA Commissioner Margaret Hamburg said, "The FDA's action today is an important step toward protecting more Americans from the potential dangers of *trans* fat. Further reduction in the amount of *trans* fat in the American diet could prevent an additional 20,000 heart attacks and 7,000 deaths from heart disease each year—a critical step in the protection of Americans' health." According to FDA, *trans* fat, found in some processed foods, raises low-density lipoprotein, the "bad" cholesterol, thus purportedly increasing the risk of coronary heart disease. The Institute of Medicine has apparently concluded that no safe level of consumption of artificial *trans* fat exists. Comments, including scientific data and information, must be submitted by January 7, 2014.

Lawmakers, including Sen. Tom Harkin (D-Iowa) who called on FDA in February to remove PHOs' GRAS status, applauded the agency's decision. He said, "Eliminating artificial *trans* fats from our food supply will be an enormous step towards improving our public health and reducing our health care costs, as well as potentially helping to prevent thousands of premature, fatal heart attacks each year." Rep. Rosa DeLauro (D-Conn.) responded to the announcement by calling the move "a great step in the battle against heart disease and an obesity epidemic that threatens Americans' quality of life. Local efforts blazed a trail for this decision, but there is no substitute for a nationwide standard."

The Grocery Manufacturers Association, which indicated that it planned to submit comments on the tentative determination, noted that food makers "have voluntarily lowered the amounts of *trans* fats in their food products by over 73

percent" since 2005. According to a news source, biotech companies are working to create and commercialize genetically engineered soybeans that can be used to replace PHOs. *See FDA News Release* and *CQ News*, November 7, 2013.

FDA Seeks Comments on Food Safety Survey

The U.S. Food and Drug Administration (FDA) has **issued** a request for comments concerning a proposed information collection for a Food Safety Survey. Specifically, the agency seeks comment on the following questions: (i) is the information collection necessary and will it provide practical utility; (ii) is the estimate of the burden of the information collection, including the validity of the methodology and assumptions used, accurate; (iii) can the quality, utility and clarity of the information be enhanced; and (iv) how can the burden of the information collection on respondents be minimized.

The Food Safety Survey, which the agency notes will contain many of the same questions and topics as previous Food Safety Surveys, will also be updated to explore emerging consumer food safety topics and expand understanding of previously asked topics. New topics to be explored include the increase in *listeriosis* rates in people older than age 60; consumer understanding of mechanically tenderized beef; awareness of foodborne pathogens such as *Toxoplasma gondii;* and awareness of the risks associated with eating raw sprouts. Comments will be accepted until December 31, 2013. *See Federal Register,* November 1, 2013.

FDA Seeks Comments on Food Labeling Regulations

The U.S. Food and Drug Administration (FDA) has **issued** a request for comments regarding a proposed information collection about food labeling regulations. According to FDA, current approval periods for information collection requests regarding (i) third-party disclosure burdens about the amount of *trans* fatty acids present in a food, and (ii) voluntary declarations of the quantitative amount and the percent of Daily Value of a dietary ingredient on a "per day" basis in addition to the required "per serving" basis, have expired. To remedy the oversight, to most appropriately streamline these information collections, and to eliminate redundancy in its information collection requests, FDA seeks to revise the collection to "include these third party disclosure elements and have included them in the burden estimates and discussion." Comments will be accepted until December 31, 2013. *See Federal Register,* November 1, 2013.

APHIS Finalizes Import Rules for BSE Risk Classification

The U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) has **announced** a final rule intended to bring its import regulations for bovine spongiform encephalopathy (BSE) in line with "internationally-accepted scientific literature and standards set by the World Organization for Animal Health (OIE)." According to a November 1, 2013, press release, the new rule will

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For additional information on SHB's Agribusiness & Food Safety capabilities, please contact

Mark Anstoetter
816-474-6550
manstoetter@shb.com

or

Madeleine McDonough
816-474-6550
202-783-8400
mmcdonough@shb.com

If you have questions about this issue of the Update, or would like to receive supporting documentation, please contact Mary Boyd (mboyd@shb.com) or Dale Walker (dwalker@shb.com); 816-474-6550.

require APHIS to use OIE criteria and categories to determine BSE risk classification when setting import policy for a particular country. It will also allow APHIS "to conduct its own assessment when deemed necessary, such as when a country is not yet classified by the OIE for BSE risk and requests that APHIS conduct a risk evaluation using criteria equivalent to that used by OIE."

"This action will bring our BSE import regulations in line with international standards, which call for countries to base their trade policies on the actual risk of animals or products harboring the disease," said APHIS Deputy Administrator and Chief Veterinary Officer John Clifford. "Making these changes will further demonstrate to our trading partners our commitment to international standards and sound science, and we are hopeful it will help open new markets and remove remaining restrictions on U.S. products."

Effective 90 days after publication in the *Federal Register,* the regulation will not alter other risk mitigation measures currently in place, such as the BSE surveillance program and the U.S. Food and Drug Administration's ruminant-to-ruminant feed ban. Additional details about the draft version of the final rule appear in Issue **432** of this *Update*.

FSIS Issues Final Generic Meat Labeling Rules

The U.S. Department of Agriculture's Food Safety and Inspection Services (FSIS) has **issued** a final rule amending the meat and poultry products inspection regulations "to expand the circumstances in which FSIS will generically approve the labels of meat and poultry products." Effective January 6, 2014, the final rule will also consolidate the regulations governing meat and poultry product label approvals under a new *Code of Federal Regulations* part.

Under the new regulations, FSIS will still require establishments to submit for evaluation certain types of labeling, "e.g., labels for temporary approval, labels for products produced under religious exemption, labels for products for export with labeling deviations, and labels with claims and special statements." In particular, FSIS will continue to review the following special statements and claims: (i) "[c]laims relating a product's nutrient content to a health or a disease condition"; (ii) "statements that identify a product as 'organic' or containing organic ingredients"; (iii) "claims that are undefined in FSIS regulations or the Food Standards and Labeling Policy Book, e.g., claims regarding the raising of animals, such as 'no antibiotics administered' or 'vegetarian fed'"; (iv) "instructional or disclaimer statements concerning pathogens, e.g., 'for cooking only' or 'not tested for *E. coli* O157:H7'"; and (v) "statements that identify a product as 'natural.'"

The new rules, however, will no longer require prior review and approval for statements and claims "that are defined in FSIS's regulations or the Food Standards and Labeling Policy Book, except for 'natural' and negative claims." These claims include those that characterize a product's nutrient content (e.g., "low fat"), have a geographic significance (e.g., "Italian Style") or make a country-of-origin statement

on covered commodities. In addition, child-nutrition boxes and allergen statements applied in accordance with the Food Allergen Labeling and Consumer Protection Act will not be regarded as special statements or claims requiring sketch approval.

"When this rule becomes effective, labels that do not qualify for generic approval will receive first priority for review," concludes FSIS. "Labels that do qualify for generic approval will receive a lower or second priority." Additional details about the draft version of the final rule appear in Issue **420** of this *Update*. *See Federal Register,* November 7, 2013.

EFSA Publishes Reference Values for Vitamin C and Manganese

At the behest of the European Commission, the European Food Safety Authority's (EFSA's) Panel on Dietetic Products, Nutrition and Allergies (NDA Panel) has **published** population reference intakes (PRIs) for vitamin C and adequate intakes (AIs) for manganese "as part of its ongoing work on Dietary Reference Values (DRVs)." Basing its conclusions on the quantity of vitamin C that balances metabolic vitamin C losses in healthy adults, the scientific opinion on vitamin C proposes (i) an average requirement (AR) of 90 mg/day and a PRI of 110 mg/day for men; (ii) an AR of 80 mg/day and a PRI of 95 mg/day for women; and (iii) a PRI of 20 mg/day for infants aged 7-11 months. For children and adolescents, the NDA Panel has set PRIs ranging from 20 mg/day for children aged 1-3 years, to 100 and 90 mg/day for boys and girls aged 15-17 years. It also notes that pregnant women should consume an additional 10 mg/day of vitamin C above the PRI for non-pregnant women, while lactating women should consume an additional 60 mg/day to cover vitamin C losses in breast milk.

For manganese, the NDA Panel has set an AI of 3 mg/day for all adults, including pregnant and lactating women, and an AI ranging from 0.02 mg/day to 0.5 mg/day for infants aged 7-11 months. In addition, the scientific opinion sets manganese AIs for children and adolescents "using isometric scaling and reference body weights for the respective age groups." Although there are no biomarkers available to assess manganese intake or status, the NDA Panel notes that nuts, chocolate, cereal-based products, crustaceans and mollusks, peas and beans, and fruit "are rich sources of manganese," "an essential dietary mineral which is a component of a number of metalloenzymes involved in amino acid, lipid and carbohydrate metabolism." *See EFSA News,* November 4, 2013.

Canada's Agriculture Minister Riles Some over COOL Remarks

Speaking during a North American Meat Association conference in Chicago, Canada Agriculture Minister Gerry Ritz reportedly called on the United States to resolve a dispute over country-of-origin labeling (COOL) requirements for pork and beef by including provisions in the Farm Bill currently under consideration in the U.S. Congress. Ritz claimed that the rules, now before a World Trade Organization (WTO) compliance panel to decide whether provisions found in violation of WTO obligations now conform since they were revised, have cost Canada more than

$1 billion annually. He also indicated that Canada has already prepared a list of retaliatory measures it will take if WTO rules in its favor.

National Farmers Union President Roger Johnson reportedly bristled at the minister's remarks, saying "Recent threats by the Canadian Agriculture Minister are unjustified and out of line. As a sovereign nation, we should not take direction from Canada. They do not dictate what is compliant, it is the reason we have the WTO." Some livestock and meat interest groups in the United States, Canada and Mexico, however, do not support COOL and have an appeal pending in federal court from a district court ruling denying their motion to stop the rules' implementation. According to a news source, several other groups, including the Humane Society of the United States, Organization for Competitive Markets, United Farm Workers of America, and independent livestock farms have filed an amicus brief supporting COOL. *See CBC News* and *MeatPoultry.com*, November 5, 2013; *Agri-Pulse.com* and *CattleNetwork.com*, November 6, 2013.

China Issues New Food Safety Regulations

The Chinese Food and Drug Administration has announced a public consultation on a revised **draft** of its new food safety law. Reportedly a high-priority initiative motivated by recent food safety scandals, the draft amendment includes the following major changes: (i) clarification of government duties; (ii) increased regulatory obligations for food manufacturers and distributors; (iii) enhanced controls over health foods, health products, infant formula, and imported foods; and (iv) increased penalties for non-compliance. Comments will be accepted until November 29, 2013. *See U.S-China Health Products Association News Release,* October 29, 2013; *ChemLinked.com,* November 1, 2013.

Washington State Rejects GM Labeling

Washington state voters have reportedly rejected a ballot initiative that would have required front-of-package labeling for genetically modified (GM) food products, seeds and other agricultural commodities. According to the Washington Secretary of State, 53 percent of voters ultimately opposed the initiative, which was hotly contested by consumer advocates, food companies, physicians, and farmers in the months preceding the November 5, 2013, general election.

Opponents of the initiative argued that GMO labeling would not only increase household food prices by as much as $400 per year, but would expose small farmers to "shake-down, bounty hunter law suits" as well as burdensome regulations. "This is a clear victory for Washington consumers, taxpayers and family farmers across our state," said "No on 522" campaign spokesperson Dana Bieber in a November 5 statement. "Washington voters have soundly rejected this badly written and deceptive initiative."

Meanwhile, major grocery retailers purportedly plan to continue their efforts to block state initiatives by preempting mandatory GMO labeling laws at the federal level. "In two consecutive years, there have been two different ballot measures in two different states that have been rejected by voters," Louis Finkel, executive vice president for government affairs at the Grocery Manufacturers Association, told reporters. "We should understand now that labeling is not a political issue." *See The New York Times,* November 6, 2013; *NPR,* November 7, 2013.

OEHHA Releases DART IC Meeting Agenda

California EPA's Office of Environmental Health Hazard Assessment (OEHHA) has **issued** a tentative agenda for the November 21, 2013, meeting of its Developmental and Reproductive Toxicant Identification Committee (DART IC). The committee, which determines whether a chemical has been shown to cause reproductive toxicity, will be reconsidering whether certain chemicals listed via the Labor Code mechanism as known to the state to cause reproductive toxicity should remain listed. It will also consider how to tabulate data from epidemiological studies in hazard identification documents using a **matrix** that includes columns for study design and sample size, outcomes of interest, exposure dosages measures, routes of exposure, and confounders, among other matters. *See OEHHA News Release Update*, November 7, 2013.

Telluride Rejects Proposed SSB Tax

Voters in Telluride, Colorado, have rejected a proposed 1-cent-per-ounce tax on sugar-sweetened beverages (SSBs) in a 683-313 vote. Proceeds from the tax would have reportedly funded youth health initiatives. According to a media source, "Kick the Can Telluride" was "by far the most controversial question" on the ballot, attracting outside interest from philanthropists and industry lobbying groups bankrolling campaigns for and against the ballot question. Additional details about the Telluride SSB tax campaign appear in Issue **500** of this *Update*. *See Politico.com*, November 6, 2013; *WatchNewspapers.com,* November 7, 2013.

Hawaii Mayor Vetoes Measure Curbing Pesticides, GMO Crops

The mayor of Kauai County, Hawaii, has vetoed a **bill** that sought to restrict pesticide use by agricultural companies developing genetically modified (GM) crops on the island. The bill would have required biotechnology crop companies to disclose what pesticides they use and established no-spray zones around schools, residences, medical facilities, roads, and waterways. Although the provision that aimed to restrict the growing of GM crops was eventually removed, seed companies that operate on Kauai reportedly said that the measure would disrupt their operations.

Calling the bill "legally flawed," Kauai County Mayor Bernard Carvalho Jr. purportedly agreed with the intent of the bill but argued instead for a study of the environmental and health impacts of pesticide use on the island. "We can and will find legal means to address these important health and safety issues," Carvalho said in a statement.

Critics reportedly claim that biotech crops contribute to extensive pesticide use, which causes environmental damage and health concerns for people and animals. But industry insiders state that biotech crops are crucial for increasing global food production and improving environmental sustainability, noting that pesticide use is already well regulated by state and federal officials.

Meanwhile, Executive Director of the Hawaii Crop Improvement Association Alicia Maluafiti noted that her group was glad to see it vetoed. "This measure, although intended to be good for the community, would have had long-term negative effects on all agriculture in Kauai and our state, not just the seed industry or big agriculture," she reportedly said.

According to a news source, the Kauai County Council will meet on November 14, 2013, to consider whether to accept or override the Mayor's veto. Five out of six votes are apparently needed for an override. *See Reuters,* October 31, 2013; *Honolulu Star Advertiser,* November 7, 2013.

LITIGATION

Ninth Circuit Tolls Publication Date for FDA Proposed Rule

While the Ninth Circuit Court of Appeals has granted the Food and Drug Administration's (FDA's) motion for expedited consideration of its emergency motion to stay a district court order establishing rulemaking deadlines under the Food Safety Modernization Act, it denied the stay pending appeal. *Ctr. for Food Safety v. Hamburg*, No. 13-16841 (9th Cir., order entered November 4, 2013). Details about the motion appear in Issue 501 of this *Update*. The Ninth Circuit has, however, deemed "the period of compliance established by the district court tolled" due to the "government shutdown." It extended until December 20, 2013, the date on which FDA will be required to publish a notice of proposed rulemaking addressing novel requirements for preventing the intentional adulteration of food.

The Ninth Circuit also granted FDA's motion to expedite the hearing of its appeal. Thus, the opening brief must be filed by December 23, the answering brief is due January 22, 2014, and the optional reply brief must be filed within 14 days after service of the answering brief. The case will be heard during the week of March 10 in San Francisco.

Court Dismisses Claims Against Costco over VitaRain® Beverages

A federal court in Washington has dismissed the second amended consumer-fraud complaint filed against Costco Wholesale Corp. concerning its VitaRain® Enhanced Water Beverage; while the court dismissed the complaint without leave to amend, it did not dismiss it with prejudice. *Maple v. Costco Wholesale Corp.*, No. 12-5166 (U.S. Dist. Ct., E.D. Wash., order entered November 1, 2013).

The plaintiff claimed that the name "VitaRain" is itself deceptive, and the court disagreed, finding it implausible that it could "deceive a substantial portion of the public into believing that the beverage is 'full of vitamins only' or that it is a 'nutritional' or 'healthy' beverage. The name 'VitaRain' is largely nonsensical." The plaintiff also associated the name with another beverage product containing the word "vitamin," and the court stated in this regard, "Plaintiff's claim must be limited to the actual representation, 'VitaRain' in this case, and not some imagined representation he arrived at through a process of association."

The court had directed the plaintiff to amend his first amended complaint by pleading a causal connection between his alleged injuries and alleged deceptive claims that the beverage contained "natural caffeine" and was a "natural tonic." According to the court, he failed to do so. "The Second Amended Complaint does not specify what specific statements that Plaintiff read on the outer label, including whether he actually read the alleged deceptive claims that the beverage contained 'natural caffeine' or that it was a 'natural tonic.' Plaintiff further admitted at oral argument that he did not plead that he had read the 'natural caffeine' or 'natural tonic' claims."

The court declined to address the defendants' preemption argument because the plaintiff did not respond to it as to the defendants' alleged failure to disclose "synthetic caffeine" or "other unnatural ingredients" on product labels. "Plaintiff instead argued that a different claim, his claim that the name 'VitaRain' is itself deceptive, is not preempted by federal law," the court said. "More importantly, Plaintiff stated at oral argument that he was not asserting a free-standing claim for an alleged failure to disclose that the beverage contained 'synthetic caffeine' or 'other unnatural ingredients.' Rather, Plaintiff clarified that he has alleged that such disclosures were required only in light of Defendants' alleged deceptive statements that the beverage contained only 'natural caffeine' and that the beverage was comprised of a 'natural tonic.'" In the court's view, because the plaintiff did not allege that he read these statements or based his purchasing decision on them, he failed to adequately plead causation under the state consumer protection law.

Another Court Refers "All Natural" Litigation Issue to FDA

A federal court in New Jersey has, on the basis of the primary jurisdiction doctrine, halted proceedings alleging that General Mills misleads consumers by labeling its Kix® cereals with bioengineered corn as "made with all natural corn." *In re General Mills, Inc. Kix Cereal Litig.*, No. 12-249 (U.S. Dist. Ct., D.N.J., order entered November 1, 2013).

Citing rulings from California and Colorado referring the matter to the U.S. Food and Drug Administration (FDA) for resolution, the court stated that "the issue of whether products may be labeled 'Natural' when they are made with bioengineered forms of corn falls within the expertise of the FDA and deference to the FDA's regulatory authority is appropriate here." Information about the Colorado

litigation appears in Issue 492 of this *Update*. The court "administratively terminated" (i) the action "until such time as the FDA responds to this referral" or the referrals in the two other cases, and (ii) the pending motions to dismiss, which can be "renewed or refiled on a schedule to be established."

Anheuser-Busch Targeted in Copyright Infringement Suit

Wooden Nickel Music, which owns the copyright to the musical composition "Lady" and the sound recording embodying that composition by the group Styx, has filed an infringement action against Anheuser-Busch, LLC (AB) and a film company that purportedly created a video, currently on YouTube, including part of the recording. *Wooden Nickel Music v. Anheuser-Busch, LLC*, No. 13-8145 (U.S. Dist. Ct., C.D. Cal., W. Div., filed November 4, 2013). The video, titled "Bud Light Commercial – The Elevator," features a scheme in which young men cause an elevator with an attractive woman to stop between floors, so one of the men can share a beer and dance with the woman and, in the process, obtain a phone number. "Lady" is one of the songs played during the dance scene.

According to the complaint, AB's associate general counsel claims it has no record of the company "ever having seen the referenced work using Bud Light indicia" and that "AB is 'not legally responsible for [the film company's] use of the music in [the] unauthorized work.'" The plaintiffs seek injunctive relief, damages for each separate infringement or statutory damages of $150,000 with respect to each infringement, an accounting, interest, attorney's fees, and costs.

Hearing on Pre-Trial Motions Scheduled in Parnell Criminal Action

A December 6, 2013, hearing will be held before a Federal court in Georgia on pending pre-trial motions in a criminal lawsuit filed against former Peanut Corp. of America officials and employees, including owner Stewart Parnell. *United States v. Parnell*, No. 13-12 (U.S. Dist. Ct., M.D. Ga., Albany Div., November 5, 2013). The company was the source of a nationwide *Salmonella* outbreak in 2009, and the 76-count indictment charges four individuals with conspiracy, mail and wire fraud, obstruction of justice, and other counts related to the distribution of adulterated and misbranded food. Among the pending motions are requests for the disclosure of government witnesses and release of *Brady* materials (exculpatory information).

OTHER DEVELOPMENTS

Rudd Center Issues 2013 Report on Food Advertising to Children and Teens

The Yale University Rudd Center for Food Policy & Obesity has **released** an updated report on food advertising to children and teens that criticizes the fast-food industry for failing to meet its own marketing standards. Funded by the Robert Wood Johnson Foundation, "Fast Food FACTS 2013" claims that fast-food

restaurants spent $4.6 billion on total advertising in 2012, an 8 percent increase over 2009. In particular, the report notes that even as "older children's total exposure to fast food TV and internet advertising declined," "fast food marketing via social media and mobile devices—media that are popular with teens—grew exponentially."

According to the Rudd Center, which reportedly surveyed the menus and marketing practices of 18 top fast-food restaurants in the United States, children aged 6-11 saw 10 percent fewer fast-food TV ads in 2012 compared to 2009, while many chains discontinued popular Websites geared toward younger audiences. At the same time, however, the report alleges that "three-fifths of fast food restaurants increased TV advertising to older children," with an 8 percent increase in the amount of funds allocated to Spanish-language TV ads. It also notes that 19 percent of all fast-food display advertising appeared on Facebook, with three-quarters of McDonald's Happy Meal display ads appearing on kid-friendly Websites such as Nick.com, Roblox.com and CartoonNetwork.com.

In addition, the Rudd Center singled out the nutritional content of fast-food fare, alleging that "less than 1% of kids' meals combinations at restaurants meet nutrition standards recommended by experts, and just 3% meet the industry's own Children's Food and Beverage Advertising Initiative and Kids LiveWell nutrition standards." Although the report admits that "most restaurants offered at least one healthy side option and three-quarters increased healthy beverage options," it still faults the establishments in question for failing to increase the proportion of lower-calorie, healthier items on menus.

To help address these issues, the report urges the fast-food industry to apply its own nutrition standards to the majority of kids' meals, automatically provide healthy sides and beverages as the default option on kids' meals, and make healthier options available at a reasonable price. It also recommends, among other things, that these companies "stop marketing directly to children and teens to encourage consumption of unhealthy fast food," "limit advertising on children's TV networks and third-party kids' websites to healthy kids' meals only," and "stop unfair marketing targeted to children, including ads that focus on promotions, not food, mobile advergame apps, and online ads that link to advergame sites."

MEDIA COVERAGE

WSJ Notes Labeling Trend Away from "Natural"

According to *Wall Street Journal* reporter Mike Esterl, products with the "natural" or "all natural" label represented $40 billion in retail sales in the United States in the preceding 12 months and market researchers have found that more than 50 percent of Americans seek the "all natural" label when they shop for food. Still,

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food and beverage companies have begun "quietly removing" these words from their product labels under pressure from dozens of lawsuits filed during the past two years challenging the terminology as false and deceptive.

Esterl notes that the litigation is complicated due to the Food and Drug Administration's (FDA's) decision not to define the terms. He observes that courts have, in recent months, stayed several of these lawsuits and referred questions to FDA about whether the "natural" designation can be used on products containing genetically modified (GM) ingredients. Details about the latest referral by a federal court in New Jersey appear elsewhere in this *Update*. Esterl reports that food companies, such as Barbara's Bakery, Inc., which paid $4 million this year to settle claims that it used non-natural ingredients in its "natural" products, have decided to replace the term with words such as "simple," "wholesome," "nutritious," and "minimally processed." *See The Wall Street Journal*, November 6, 2013.

Meanwhile, the Center for Food Safety (CFS) has **urged** FDA to reject court requests that it define "all natural" in relation to GM food and beverage products, saying that this regulatory gap should not be addressed "without first providing to the public notice of the proposed rulemaking and an opportunity to comment." Alternatively, CFS calls on the agency "to define 'natural' in a way that prohibits the labeling of any food as 'natural' that was produced in whole or in part through the process of genetic engineering or that contains ingredients derived from genetically engineered organisms." ■

OFFICE LOCATIONS

Geneva, Switzerland
+41-22-787-2000
Houston, Texas
+1-713-227-8008
Irvine, California
+1-949-475-1500
Kansas City, Missouri
+1-816-474-6550
London, England
+44-207-332-4500
Miami, Florida
+1-305-358-5171
Philadelphia, Pennsylvania
+1-215-278-2555
San Francisco, California
+1-415-544-1900
Tampa, Florida
+1-813-202-7100
Washington, D.C.
+1-202-783-8400