

interactive dialogue

“The Changing Landscape of Food Labeling and GMO Litigation” webinar will begin at 8:00 am PT / 9:00 am MT / 10:00 am CT / 11:00 am ET

- A sign-in sheet and materials were enclosed in the program reminder email sent Tuesday, September 13, 2016.
- A replay of this webinar will be available on dorsey.com.
- To submit a question before or during the webinar, please use the chat pane on the left-hand side of your screen.



interactive dialogue

The Changing Landscape of Food Labeling and GMO Litigation

Michael W. Droke

Chip Magid

To listen to the audio portion
of the webinar, please dial
1-800-536-9136, access code:
9038709#.



a brave new format

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why pick this topic?

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

COLLEEN GALLAGHER, Individually and on Behalf of All Others Similarly Situated,
Plaintiff,
v.
CHIPOTLE MEXICAN GRILL, INC., a Delaware Corporation,
Defendant.

Case No. 15-CV-3952
CLASS ACTION
COMPLAINT FOR VIOLATION OF



IN THE UNITED STATES DISTRICT COURT OF OREGON
EUGENE DIVISION



CHRISTOPHER HAMILTON, individually and on behalf of all others similarly situated,
Plaintiff,
v.
SUNBELLS, INC.,
SUNBELLS SALES, INC.,
Defendants.

CASE NO. 6:16-ev-382
CLASS ACTION ALLEGATION
COMPLAINT
STATE AND COMMON LAW CLAIM
FOR DECEPTIVE ACTS

IN THE SUPREME COURT OF CALIFORNIA

MICHELLE QUESADA,)
Plaintiff and Appellant,)
v.)
Respondent.)

S216305
Ct.App. 2/3 B239602
Los Angeles County
Super. Ct. No. BC436557



what are the basic litigation risks?

- **Healthy or unhealthy?**
- **100% gluten free/organic/natural?**
- **Truth in labeling**
- **Claims that make the head spin**

what has changed the landscape?



what has changed the landscape?



how has the new GMO legislation affected litigation risk?

- **National Standard/States Preempted**
- **Animal Protein Not GE Due Solely to Feedstock**
- **Labeling Through Text, Symbol, Link**
- **GE/Non-GE Treated As Equally Safe**
- **Open Issues**
 - **Final rule uncertain**
 - **Tension with FDA**
 - **Gene editing/CRISPR**

is there any other good news?



what 5 things should I do to protect my company?



who wants more credit? CLE credit, that is

how do I stay up-to-date?



Scanning Top Developments in Product Liability News Daily



St. Jude Turns Tables on Short-Seller That Claimed Lack of Cybersecurity, Sues Muddy Waters Capital for Defamation

St. Jude Medical sued short-seller Muddy Waters Capital LLC for defamation in federal court in Minnesota, alleging that Muddy Waters falsely asserted that St. Jude's pacemakers and implantable defibrillators lacked cybersecurity in an effort to drive down St. Jude's stock price. [9/8/16]

Medical



First Circuit Revives Dietary Supplement Labeling Action Against CVS

The U.S. Court of Appeals for the First Circuit reversed a district court's dismissal of a putative class action alleging that the label of CVS Pharmacy, Inc.'s Vitamin E dietary supplement is deceptive because the label's "heart health" claim is unsupported by scientifically valid studies. The First Circuit found that the state deceptive practices claims were not preempted by federal labeling law because, read in the plaintiff's favor for purposes of Rule 12(b)(6), the complaint plausibly stated a claim that the "heart health" claim was unsubstantiated and therefore in violation of the Food, Drug and Cosmetic Act. [9/7/16]



Food and Nutrition



Bigelow Wins Summary Judgment in Antioxidant Labeling Cases

Judge William H. Orrick of the U.S. District Court for the Northern District of California has granted summary judgment in favor of R.C. Bigelow, Inc. in two putative class actions alleging that Bigelow mislabeled its green tea products by including the phrases "healthy antioxidants" and "packed powerful antioxidants." Judge Orrick found that the plaintiffs had failed to provide evidence that a reasonable consumer was likely to be misled by Bigelow's statements and did not present evidence in support of a claim for damages. See also [here](#). [9/9/16]



Technology



\$5.55 Million Civil Penalty in CPSC Failure to Report Case

Goodman Company, L.P. has agreed to pay a \$5.55 million civil penalty to settle a complaint brought in the U.S. District Court for the Southern District of Texas by the U.S. Consumer Product Safety Commission alleging that, after receiving numerous reports of its packaged terminal air conditioners/heaters catching fire, smoking and overheating, including three reports of hotel fires, Goodman delayed reporting the fire hazard to CPSC for about two years. Then, when it did report, Goodman identified only three reports of overheating, even though it had received additional reports. [9/12/16]



questions?



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