



## Product Liability, Mass Torts and Product Stewardship

Our Product Liability, Mass Torts and Product Stewardship team assists our manufacturing clients on risk, compliance and business management at every stage of the product life cycle. We are positioned to defend claims of any scope, around the globe. We help our clients keep ahead of the game on compliance with product safety legislation, lobbying and engaging if necessary with government legislatures and the public regulatory authorities. We advise on environmentally friendly supply chain management.

We handle crises that involve product recalls, governmental investigations, insurance coverage and environmental concerns. We are mindful of the need to maintain reputations. In the event of claims that may need to go to arbitration or trial, our team includes some of the most highly regarded dispute resolution lawyers in the world, according to respected legal publications, including Chambers and Partners, and Legal 500.

We collaborate with our colleagues around the world to ensure that each client receives sound advice based on a multi-disciplinary and multi-jurisdictional approach.

### CAPABILITES

#### Product Liability and Mass Torts

- Litigation and defense

DLA Piper is proud to feature a premier team of product liability litigation attorneys whose depth and breadth of knowledge and experience is unmatched. In jurisdictions around the world, our lawyers advise on legal responsibility for product defects, injuries sustained, and damages suffered, and assist in the collation of relevant evidence and the engagement of relevant experts.

Our attorneys are highly experienced at managing the litigation process from beginning to end, including with regards to disclosure of documents, collation of witness evidence, obtaining expert evidence, interim applications, and preparations for trial, as well as through trial and the appeals process.

- Class actions by multiple claimants and mass torts

DLA Piper regularly represents clients in class action and mass tort lawsuits and serves as trial counsel to many of the world's leading corporations. In actions filed on behalf of large groups of claimants, our

#### **Christopher G. Campbell**

Partner  
Atlanta  
T: +1 404 736 7808  
christopher.campbell@dlapiper.

#### **Kieran O'Brien**

Partner  
Melbourne  
T: +61 3 9274 5912  
kieran.obrien@dlapiper.com

#### **Prof Dr Ludger Giesberts LL.M.**

Partner  
Cologne  
T: +49 221 277 277 351  
ludger.giesberts@dlapiper.com

#### **David T. Neave**

Partner  
Vancouver  
T: +1 604 643 2961  
david.neave@dlapiper.com

#### **Teresa Hitchcock**

Partner  
Sheffield  
T: +44 (0)114 283 3302  
teresa.hitchcock@dlapiper.com

clients depend on our attorneys to anticipate emerging threats, develop streamlined, effective strategies that respond to the nuances of a particular suit, defeat class certification and/or plaintiff's claims at an early stage, and safeguard their long-term business interests. We have repeatedly brought our diversity of knowledge, talent, and experience to bear successfully defending against consumer claims of all sizes and levels of complexity including emerging forms of collective redress.

- Insurance coverage

DLA Piper advises on the availability and scope of cover (product recall, business interruption, legal costs, etc.), the form of all necessary notifications and any relevant exclusions, and will liaise with insurers/ brokers as appropriate.

## Product Stewardship and Regulatory Compliance

- Product safety

Product safety forms an important part of our practice. Our lawyers have extensive experience in advising on supranational, and national/state legislation; the areas which are most likely to be of concern to manufacturers, distributors and suppliers, including materials restriction regulation, such as the EU REACH and WEEE and RoHS legislation, packaging, waste and product life-cycle management legislation, and national requirements on labelling and containers. We are intimately familiar with the US regulatory landscape as well, and advise often on issues relating to the CPSC, FDA, FTC, and other agencies.

Our lawyers advise clients on regulations and compliance when bringing a product to market, deal with issues when a product is in the marketplace including providing risk assessments and planning corrective actions.

- Product recall and crisis management

In the event of a potential recall situation, we can deploy a Crisis Management team who can act quickly and assess whether or not a recall is necessary and continually review that decision. The team can make any necessary notifications to regulators within strict timescales.

The decision to undertake a product recall, whether on ground of regulatory compliance issues or to pre-empt potential liability claims, is always a difficult one which will be determined by a number of factors. Often a recall will be the option of last resort once all other avenues have been exhausted. Factors which will be taken in to account are: the volume of product on the market place, how easily the product can be recalled, whether or not there is a safety risk and whether any statutory obligations to undertake a recall apply.

We also provide 'Rapid Response', a global crisis management hotline service, which provides 24-hour, 365-day a year access to regulatory legal advice and crises assistance.

We also have a full capability for dealing with a number of public market surveillance authorities in various jurisdictions at the same time.

## EXPERIENCE

- Advising a number of large multinational firms, including a Japanese software and hardware manufacturer and a US-based speciality chemicals manufacturer, on the requirements on the EU REACH Regulations and providing detailed compliance strategies. This legislation, which provides for the registration, evaluation, authorization and restriction of chemicals, affects not only the chemicals sector but also most other significant manufacturing operations.
- Representing a major consumer electronics manufacturer in a US nationwide class action in which the plaintiffs alleged common law claims for fraudulent concealment and breach of express warranty, as well as violations of California's unfair competition law. Before any discovery was conducted, the court granted DLA Piper's motion to dismiss and motion to strike class allegations.
- Advising a manufacturer of lighting equipment exported to more than 20 jurisdictions in Europe, Asia and beyond, of its product safety, regulatory notification and recall obligations. We represented our client with the public authorities which initiated the proceedings and used the EU RAPEX System. Our timely advice ensured that the manufacturer's all-important reputation remained intact.
- Representing a steel manufacturer on in construction claims and construction product defect cases. Recent matters involve construction claims for payment on major stadiums and arena projects, roof collapses due to snow and other overload conditions and construction injury cases including wrongful death and other serious personal injury claims.
- Working with regulatory authorities and representing and advising a client in relation to the recall of domestic and trade central heating boilers throughout the UK, Italy and Greece. Faulty flues in the boilers could have given rise to carbon monoxide poisoning.

- International Trade, Regulatory and Government Affairs
- Litigation, Arbitration and Investigations
- Corporate
- Intellectual Property and Technology

## RELATED SECTORS

- Industrials
- Life Sciences
- Insurance
- Media, Sport and Entertainment

- Advised on the pan-European (20 countries) recall of Peugeot windscreens for a tier 2 manufacturer.
- Worldwide product recall of overheating fax machines and photocopiers giving rise to a fire risk.
- Defending a Hong Kong company in a claim for supplying defective toys which breached EU safety legislation.
- Advising underwriters on coverage and recovery issues under product recall policy in connection with the shipment of defective refrigeration units from mainland China to the UK.
- Acting as co-national counsel for a leading global pharmaceutical companies in the US in the defense of more than 3,000 claims alleging neuropsychiatric and other injuries from the smoking cessation aid.
- Represented one of the world's leading oil companies in gasoline leak toxic tort claims resulting in collective jury verdicts of \$1.65 billion, which were reversed on appeal by the Maryland Court of Appeals.
- Acting as national counsel in the US for a global medical device company in approximately 175 individual lawsuits arising from injuries and damages allegedly caused by the use of the Company's "cold therapy" medical devices (used in the post-surgical setting to deliver therapeutic cold to an injured area).
- Acting as national counsel in the US for a global pharmaceutical and supplement company in concurrent putative nationwide class actions arising from challenges to advertising, allegedly in violation of consumer protection statutes.
- Serving as regional and strategic counsel for a Japan based automobile manufacturer in the US with respect to personal injury lawsuits alleging unwanted acceleration in two of the company's automobile lines.
- Representing a US home builder, in several individual claims alleging home defects, including breach of warranty, and consumer misrepresentation and fraud in its sales and marketing practices.
- Serving as national counsel for a major US motorcycle manufacturer and several automobile and tire manufacturers.

## INSIGHTS

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### Publications

#### ***Aybar v. Aybar*: New York Court of Appeals finds registering to do business in the state does not mean consent to general jurisdiction**

12 October 2021

Consent by registration was the sole issue before the New York Court of Appeals in this case.

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#### **New California law threatens to dramatically increase pain-and-suffering damages in survival actions**

7 October 2021

Considerations in approaching case valuations and risk assessments in survival actions brought in California.

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#### **Georgia Supreme Court: Consent by registration a valid way to exercise personal jurisdiction over out-of-state corporations**

5 October 2021

The court deduced that a corporation authorized to do business in Georgia must be subject to general personal jurisdiction in the state.

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### Food and Beverage News and Trends

1 October 2021

#### **FOOD AND BEVERAGE NEWS AND TRENDS**

FDA announces winners of food traceability challenge; Pennsylvania rations sale of some popular liquors; not enough vegetables?

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## **FTC's Policy Statement on breach notifications in mobile health apps: a new, broad approach that may face legal challenge**

27 September 2021

The Policy Statement highlights the FTC's intention to step up enforcement consistent with these broad new interpretations.

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## **Food and Beverage News and Trends**

17 September 2021

### **FOOD AND BEVERAGE NEWS AND TRENDS**

FDA approves a new blue; senators seek COOL labels; pet food, Pop Tarts, Parnells.

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## **Food and Beverage News and Trends**

26 August 2021

### **FOOD AND BEVERAGE NEWS AND TRENDS**

Vegan butter company prevails; California olive oil producers reach agreement on labeling; key part of Kansas ag-gag bill struck down.

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## **Food and Beverage News and Trends**

12 August 2021

### **FOOD AND BEVERAGE NEWS AND TRENDS**

White House says order on USDA labeling rules is coming soon; appeals court rejects challenge to California's Prop 12 and its rules for housing farm animals; no vax, no service.

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## **Food and Beverage News and Trends**

23 July 2021

### **FOOD AND BEVERAGE NEWS AND TRENDS**

FDA reassures public on the safety of PFAS in the food supply; trial of former Blue Bell CEO is postponed.

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## **Food and Beverage News and Trends**

28 June 2021

### **FOOD AND BEVERAGE NEWS AND TRENDS**

FDA leader points to major changes in nation's food system; in many places, cocktails to go are going on.

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## **Food and Beverage News and Trends**

11 June 2021

### **FOOD AND BEVERAGE NEWS AND TRENDS**

Supreme Court declines to act on vaping regulations, FDA proposes "common sense reform" for dietary supplements industry, USDA and

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CDC investigate Salmonella linked to chicken parts.

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### **FDA solicits public comment on adding list of device materials to certain medical device labels**

26 May 2021

The proposed change would apply to all medical devices that may be in contact with a patient long term.

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### **Food and Beverage News and Trends**

26 May 2021

#### **FOOD AND BEVERAGE NEWS AND TRENDS**

FDA discloses post-pandemic plans for routine facility inspections, Alabama eases alcohol delivery rules, WHO issues new sodium standards.

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### **EPA moves to phase out powerful GHG refrigerants under bipartisan mandate**

7 May 2021

EPA estimates the HFC phasedown will yield cumulative climate-related economic benefits of \$283.9 billion from 2022 through 2050.

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### **California mulls new standards for post-consumer plastic in thermoforms – proposed penalties may be severe**

28 April 2021

Producers would be required to show they are including higher thresholds of post-consumer recycled plastic in thermoform plastic containers manufactured to contain fresh foods.

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### **FDA warning letters: More warnings and closer scrutiny of COVID-19 and vaping products**

26 April 2021

A large percentage of warning letters concern adulterated, unapproved or misbranded products related to COVID-19, and e-cigarette companies continue to be in the agency's crosshairs for selling unapproved products.

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### **10 tips for safeguarding privileged communications in a remote work world**

13 April 2021

Many of these technologies are so new that they are not yet the subject of case law.

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### **US Supreme Court clarifies scope of specific personal jurisdiction over corporations: *Ford Motor Co. v. Montana Eighth Judicial District***

12 April 2021

The decision resolves confusion in the lower courts.

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### **Preliminary injunction granted in Cal Chamber lawsuit concerning acrylamide Prop 65 warning**

1 April 2021

California's Eastern District federal court found that Prop 65's acrylamide warning requirement was likely unconstitutional and preliminarily enjoined new lawsuits alleging failure to warn for acrylamide exposure in food and beverages.

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### California Air Resources Board proposes cuts to VOC limits in consumer products

17 March 2021

Proposed amendments to consumer products regulations would affect retailers and manufacturers of aerosol air fresheners, hair care products, fragrances and insecticides.

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### Food and Beverage News and Trends

12 March 2021

#### [FOOD AND BEVERAGE NEWS AND TRENDS](#)

Biden restaurant grants called a lifeline for the industry; plus sugary cereal, cell-cultured seafood and sesame in the news.

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### California Prop 65: OEHHA proposes changing popular short-form warning

3 February 2021

Businesses selling products in California that utilize short-form Proposition 65 warnings may have to be re-label yet again or risk enforcement actions.

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### Food and Beverage News and Trends

1 March 2021

#### [FOOD AND BEVERAGE NEWS AND TRENDS](#)

Winter storm devastates Texas agriculture.

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### Defensible deletion: The proof is in the planning

5 February 2021

A framework for making defensible deletion an attainable goal.

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### Supporting the health of your health system

4 January 2021

Helping you tend to healthcare system wellness throughout the business life cycle.

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## Food and Beverage News and Trends

15 December 2020

### [FOOD AND BEVERAGE NEWS AND TRENDS](#)

Industry urges vaccine prioritization for food workers; FDA will publicize outbreak investigations weekly; sesame, salmon, soymilk.

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## FDA seeks feedback on industry best practices for medical device cybersecurity communications

9 December 2020

The agency emphasizes the evolving responsibility of medical device manufacturers to promptly, clearly communicate cybersecurity issues to patients and healthcare providers.

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## CMS, OIG finalize Stark and AKS overhaul – paving the way for value-based care

25 November 2020

We highlight some of the most important ways in which HHS followed through on its ideas from 2019, as well as the instances where they pivoted in reaction to public comments.

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## Food and Beverage News and Trends

16 November 2020

### [FOOD AND BEVERAGE NEWS AND TRENDS](#)

FDA ordered to study risks of GM salmon, health experts urge strict limit on alcohol consumption, plus "lite," listeria, labels.

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## The US Hemp Production Handbook

4 November 2020

A concise, high-level overview for businesses that are currently or are considering operating in this growing market.

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## Vaping and COVID-19: Plausibility and causality

26 October 2020

In a courtroom, assertions must be analyzed in the context of tort law.

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## Food and Beverage News and Trends

23 October 2020

### [FOOD AND BEVERAGE NEWS AND TRENDS](#)

USDA sued over bioengineered-food rules; as jurisdictions address the pandemic, some developments for restaurants and bars; plus plant-based burgers, cell-based meat, "natural" applesauce.

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## California on the verge of instituting new deidentification requirements, broader research exemptions for health data

23 September 2020

AB 713 has an emergency clause that means it will go into immediate effect once the governor signs it.

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### **Four years later, federal court upholds convictions but harshly criticizes off-label prosecutions**

23 September 2020

The decision will likely draw attention both in the First Circuit and beyond.

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### **Food and Beverage News and Trends**

17 September 2020

#### **FOOD AND BEVERAGE NEWS AND TRENDS**

First-ever consent decree under FSMA, plus new egg rules, new grape variety names, carrot cake without carrots, smoked almonds without smoking.

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### **PREP Act immunity: federal courts weigh in**

4 September 2020

The decisions suggest PREP Act immunity may apply broadly to manufacturers but may be more limited for hospitals, nursing homes, healthcare providers and others.

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### **Rule 26(g) certification means more than guide and advise: Key takeaways**

12 August 2020

Sanctions were imposed on an attorney for failing to properly oversee the client's discovery process.

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### **Food and Beverage News and Trends**

10 August 2020

#### **FOOD AND BEVERAGE NEWS AND TRENDS**

FDA announces new food safety blueprint, plus cell-cultured meat, bioengineered foods, soda, onions and a white candy bar, a court says, is white.

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### **For the healthcare industry, seeking to incentivize restocking of elective surgery supplies may lead to civil and criminal risk**

6 August 2020

Discounts and incentives may have unforeseen consequences under certain federal anti-bribery laws.

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### **Protecting the attorney-client privilege while under quarantine: Five tips for protecting attorney-client privilege when using online collaboration tools**

22 June 2020

With the increase in remote working comes an increased opportunity for attorney-client privilege issues to surface.

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## **"Now you see it, now you don't": Ephemeral messaging may lead to sanctions**

8 June 2020

A recent decision highlights one key risk of ephemeral messaging.

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## **US CPSC advises consumers certain recall remedies may be unavailable due to COVID-19 – four key takeaways**

15 April 2020

Guidance will evolve as the pandemic develops, and CPSC-regulated firms are encouraged to consider these actions.

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## **COVID-19: Tort immunity for vaccines and antivirals – lessons from the swine flu of 1976**

8 April 2020

While the common goal is to quickly develop countermeasures to combat COVID-19, it is important to consider the potential legal and reputational risks.

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## **Coronavirus: Supplier due diligence for vetting Chinese medical suppliers for quality, safety, fair pricing and anti-corruption compliance**

6 April 2020

Some key risks, and potential solutions to reduce cross-border operational risks.

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## **Top franchise developments of 2019**

30 March 2020

Two top franchise developments in 2019 stand out from the rest.

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## **Supporting the health of your health system**

6 January 2020

Guidance to help tend to healthcare system wellness throughout the business life cycle.

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## **Street art raises novel copyright issues – or does it?**

19 December 2019

Is street art less entitled to copyright protection than are traditional art forms?

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## **New California laws make potentially costly changes to Civil Discovery Act**

17 December 2019

The changes are sure to affect all California litigants and civil litigators starting in 2020.

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### **Upcoming 12/31 deadline to comment on CMS and OIG proposed rule changes under the Stark Law and Anti-Kickback Statute**

16 December 2019

The two highly consequential proposals are poised to change how HHS approaches fraud and abuse enforcement in federal healthcare programs.

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### **Announcing DLA Piper's MDL Benchmark Database**

9 December 2019

Comprehensive and systematic analyses of MDL procedures and practices.

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### **What starts the avalanche? Earlier triggers for life sciences mass torts in the era of big data and social media**

9 December 2019

The bar for safety issues to lead to claims that ultimately result in mass tort litigation has never been lower.

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### **Plaintiff attorney advertising in pharmaceutical and medical device litigation: addressing the risk of harm to the public**

29 October 2019

Law firm advertising about pharmaceutical and medical device litigation is receiving heightened regulatory scrutiny.

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### **CMS and OIG release most expansive changes to the fraud and abuse laws in over a decade**

18 October 2019

The proposed changes are part of the HHS Regulatory Sprint, which seeks to remove regulatory barriers to care coordination and value-based care.

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### **PFAS: in California, regulators put cleanup levels on hold, but announce major data hunt**

7 MAR 2019

This data hunt will affect thousands of facilities, drinking water systems and private drinking water well owners.

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### **California Proposition 65 lists two chemicals, PFOA and PFOS, found in a number of consumer products**

12 DEC 2018

Given Prop 65's active and litigious enforcers, companies doing business in California that suspect their products may cause an exposure to PFOA/PFOS should consider compliance options now.

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### **California's Prop 65 regulator moves to counteract court ruling, exclude Prop 65 cancer warnings for coffee**

21 JUN 2018

If the regulation is adopted, coffee will not require a cancer warning label after all.

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### **California court's narrow Prop 65 coffee ruling should not be misinterpreted**

9 APR 2018

A careful understanding of the narrow basis of the ruling is important for coffee consumers and for all manner of product-based companies doing business in California.

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### **New glyphosate decision forces Prop 65 to reckon with federally accepted science**

7 MAR 2018

This outcome will likely put wind in the sails of industry groups and individual companies challenging the science behind other Prop 65 listings.

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### **Food safety from farm to fork: FDA publishes proposed rules aiming to ensure the safety and security of the food supply**

24 JAN 2013

The proposed rules lay the foundation of the prevention-based, modern food safety system envisioned in the FSMA and have wide-ranging effects on many industries, including every link in the global food supply chain.

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### **Law à la Mode**

1 MAY 2012

[LAW À LA MODE](#)

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### **Law à la Mode**

1 DEC 2011

[LAW À LA MODE](#)

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### **UK: The real risk of cyber attack**

1 AUG 2011

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## Events

## Previous

### Delegation of Chinese Investors and Entrepreneurs from Sichuan, China

19 December 2019  
East Palo Alto

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## NEWS

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### DLA Piper lawyers and practices ranked in latest edition of *The Legal 500*

17 June 2021

DLA Piper announced today that the firm received 42 individual lawyer rankings and 49 firm rankings in *The Legal 500 United States 2021* guide.

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### Product liability team led by Jayme Long joins DLA Piper in Los Angeles

17 March 2021

DLA Piper announced today that Jayme Long has joined the firm's Litigation and Regulatory practice as a partner based in Los Angeles.

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### DLA Piper lawyers and practices ranked in latest Chambers edition

8 May 2020

DLA Piper today announced that the firm received 172 lawyer rankings and 71 practice rankings in *Chambers USA's 2020* guide.

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