



## Emily R. Lyons

**PARTNER**

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### OVERVIEW

Emily grew up on a northern Illinois dairy farm, and now helps clients bridge the gap from farm to fork.

Emily's excellent research and writing skills – and a preference for people rather than cows – set her on the path to become an attorney. Understanding that food and beverage producers face tough choices regarding sustainability, marketing and legal requirements, she steers clients toward best solutions.

She guides clients on complex regulatory issues as they bring dairy products, beverages, fruits and vegetables, processed foods, alcohol beverages and other agricultural goods to market. At the intersection of agriculture, food and environment, Emily handles compliance matters such as labeling, marketing, permitting and agency inquiries including the Food Safety Modernization Act, Pasteurized Milk Ordinance, USDA National Organic Program and bioengineered food disclosure standard, Generally Recognized as Safe status for food additives and food contact substances, and the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65). She also appreciates serving on the firm's seasoned cannabis team, which is particularly poised to assist marijuana and industrial hemp clients through today's fast-changing regulatory environment. In addition, Emily counsels alcohol beverages companies on issues related to importing, licensing, labeling, and compliance. Further, she has assisted several alcohol beverage companies in formulating, labeling, and marketing innovative products such as wine-based cocktails, hard seltzers, and whiskeys as well as shepherding them through the differences in TTB and FDA regulations.

### Industry

Food Systems

### Services

Advertising & Marketing

Alcohol Beverage

Alternative Farming & Sustainability

Animal Health & Production

Cannabis

ESG Strategy & Compliance

Food Safety & Regulation

Functional Foods & Beverages

PFAS

Product Safety

Proposition 65

Public Policy, Regulatory & Government Affairs

# HUSCH BLACKWELL

Before private practice, Emily served as counsel and director of regulatory affairs at the International Dairy Foods Association (IDFA). Her unique ability to speak the language throughout the supply chain brings clients value as she navigates complex scientific information, melds it with antiquated regulatory constructs and makes it understandable, all while remaining innovative and cutting edge.

## Experience

### FOOD, DIETARY SUPPLEMENTS, ANIMAL FEED, AND COSMETICS

- Handle complex food recall solutions for client including FDA communications, dispute with supplier that provided recalled product and claims/dispute with insurer.
- Advise client in preventing or responding to FDA and FSIS inspection citations and enforcement actions such as 483s, warning letters, import detention and agency investigation, as well as provide real-time advice during facility inspections and recall situations.
- Guide start-up energy drink company in formulation, FDA labeling, and substantiation of marketing claims for products.
- Counseled dairy processing company on new product formulations and labeling options to reduce costs under marketing order systems.
- Advise companies on low acid canned food (LACF) regulations, engaged process authority, and how to manage compliance with acidified foods regulations.
- Counsel food manufacturers, importers, distributor, and retailers on compliance with the various Food Safety Modernization Act regulations including Preventive Controls for Human Food and Animal Food, Sanitary Transport Rule, Prevention of Intentional Adulteration, and Produce Safety Rule.
- Counseled dairy importer on Grade A dairy product requirements and assist in updating practices and procedures prior to pursuing approval under the international certification program.
- Represent organic food processing and production companies before the National Organic Program's Compliance and Enforcement Division.

## Experience

- Assisted in reviewing juice importer compliance with juice HACCP import requirements.
- Assist clients in developing lawful labels, claims and marketing programs for USDA and FDA-regulated products.
- Represented dairy industry interests before the National Conference on Interstate Milk Shipments on food safety and water reuse issues.
- Advised poultry processing facility on FSIS food safety, sanitation and packaging requirements.
- Develop FDA, AFFCO, state and Canadian compliant labels for international animal feed and pet food companies.
- Consult with venture capital firm on applicable legal and regulatory framework for cell-based meat products used in human and animal food.
- Assist animal feed and pet food companies with nationwide recall of products. Handled dispute with supplier and claims/dispute with insurer.
- Conduct regulatory due diligence reviews, including for acquisition of international organic grain company.
- Analyzed and explained to 500+ member companies, complex regulatory matters such as food safety and defense, food labeling and marketing, environmental, worker safety, sustainability and organic standards.
- Represent food industry clients at hearings, briefings, and meeting with Congress, FDA, USDA, DHS, USEPA, DOL-OSHA and other administrative agencies.
- Assist in review of tariff classification and import license requirements for various food products.
- Counsel recycled grain company on upcycling spent grain, food safety considerations, and compliance with cGMPs and FSMA rules.

## Experience

- Advocate on behalf of food importer with FDA regarding bulk food labeling on imported frozen fruit puree.
- Guided pet food company through recall of salmonella contaminated product and follow up with state and federal regulators on closing of recall.

### **ALCOHOL BEVERAGE REGULATION AND LICENSING**

- Assist clients on formulation and labeling for new and innovative TTB and FDA regulated alcohol beverage products including wine, hard seltzers, beer, and whiskey brands.
- Develop certification scheme for wine company to substantiate claims on natural wine.
- On behalf of national wine importer and distributor, developed license management system for state-to-state alcohol licensing restrictions and other statutes of numerous state and federal regulatory agencies.
- Manage alcohol beverage formulation and labeling submissions for various alcohol beverage companies.
- Represent alcohol and beverage clients before TTB in disputes regarding licensing, formulation, and labeling.
- Act as primary regulatory counsel for liquor importer and assist with labeling and marketing inquiries.
- Advised distillery on pivoting toward hand sanitizer production amid the COVID-19 pandemic.
- Assisted one of the fastest growing hospitality companies in transitioning and licensing 200+ hotels.
- Working with new tequila start-up company to establish business and secure licensing for its US debut.
- Counseled alcohol beverage company on cross-marketing with cannabis influencer.
- Manage in excess of 1,000 annual licenses for a single client.

## Experience

- Assist alcohol beverage promotion company in identifying state restrictions on alcohol beverage couponing and sweepstakes.

### **HUMAN AND ANIMAL DRUGS AND MEDICAL DEVICES**

- Consult with start-up sunscreen company on sunscreen monograph requirements and legal delivery methods for products.
- Serve on legal team in justifying current formulation, labeling of marketing on feminine wipes as a cosmetic and not a medical device.
- Advise and assist radioactive-based drug company on obtaining 50 states drug manufacturing and distribution licenses.
- Assist OTC drug and cosmetic manufacturer in developing corporate security plan, emergency response plan, and crisis management plan to assist with CTPAT compliance.
- Counseled a foreign animal health manufacturer on the FDA and USDA compliance aspects impact potential acquisition of a U.S. animal health manufacturing facility.
- Assist animal health company in reviewing safety, labeling, and marketing of flea and tick products, including EPA minimum risk pesticides.

### **OTHER AGRICULTURAL MATTERS**

- Advise and defend dairy processor and food retailer in state dairy unfair trade practice investigations.
- Assist dairy processing company in evaluating Federal Milk Marketing Order petitions and develop strategy for addressing concerns with petitions.
- Counsel fertilizer company in state licensing, labeling, and reporting requirements for incorrectly manufactured product.
- Assist dairy company in developing contracts for sale of livestock, animal feed, and standing crops.

## Experience

- Represent clients before Vermont Agency of Agriculture, Food and Markets and other state Departments of Agriculture in various administrative hearings.
- Develop and execute advocacy strategy on pending proposals before the National Organic Standards Board.
- Assist in antitrust reviews of food and meat processing companies to enter into joint ventures and mergers with other processing companies.
- Serve on legal team representing pork processor in regulatory proceedings regarding breeding sow confinement.
- Assisted in regulatory due diligence of silage inoculant company and ensure appropriate federal and state compliance with registration, licensing and reporting.
- Represent organic coalition before the National Organic Standards Board and National Organic Program on regulation of ammonia extracts.

## MARKETING AND LABELING

- Counseled animal health companies on advertising and marketing of animal drug, grooming products and other pet accessories as "organic," "cruelty free," "sustainable," "natural," etc.
- Assist in reviewing and developing claim substantiation for product promotional and advertising campaigns.
- Reviewed dairy company marketing regarding "free of" claims and substantiations required by state regulators to determine compliance.
- Act as go to legal counsel for brand owners, food processors, and retailers on sustainable farming, ranching, and fishing claims.
- Monitor and consult with various consumer packaged goods companies regarding marketing claims and developments before the FTC, NAD and consumer litigation.

## Experience

- Consult with food, agribusiness, and consumer goods companies on ESG related marketing and translating CSR successes into substantiated marketing.
- Develop state law compliant sweepstakes and couponing programs for dairy products.
- Consult with distribution company on sustainability, recycling, and composting marketing of paper and plastic products.

### **CANNABIS, INDUSTRIAL HEMP, AND CBD**

- Consult with clients regarding ever changing state laws and regulations applying to industrial hemp and CBD labeling and marketing.
- Vet marketing and labeling of industrial hemp and CBD containing foods, dietary supplements, and cosmetics.
- Counsel brand management company on risk of licensing brands on CBD and industrial hemp containing cosmetics, pet treats, and dietary supplements.
- Assist companies in understanding federal and state framework as applicable to consumer products that contain industrial hemp and CBD.

### **PROPOSITION 65**

- Counsel clients on compliance with California's Safe Water and Toxic Enforcement Act (Proposition 65), as well as respond to 60-day notices and retailer indemnification requests.
- Assisted in the development of client testing program for monitoring and determining compliance for foods, dietary supplements, and various consumer products for brand owners, U.S. distributors and manufacturers.
- Assisted food industry trade association in evaluating and determining presence and volatility of listed chemicals in food products.
- Developed Proposition 65 testing and labeling compliance program for consumer products companies including water filters, makeup bags, coffee mugs, and fishing gear.

## Experience

- Drafted comments objecting to scientific and legal basis for proposed listing of styrene and other chemicals chemical on Proposition 65 list.

### **TRADE ASSOCIATION AND COALITION MANAGEMENT**

- Serve as outside general counsel for trade association and manage all aspects of government advocacy on priority issues before FDA, USDA, and USTR.
- Establish coalition to represent organic nutrient crop input proponents to ensure appropriate representation before National Organic Standards Board and National Organic Program.
- Negotiated, drafted and managed trade association contracts, nondisclosure agreements, licensing agreements and other documents.
- Assist in completing and filing PAC reports with Federal Election Commission.
- Serve on outside general counsel team advising international food and agribusiness importers and suppliers, including trade organization, on geographic indications and labeling of food imports.
- Develop advocacy strategy for priority issues of trade associations and coalitions before the FDA, USDA, USTR, and Congress.
- Represent trade association on cross industry coalitions to ensure specific interests of group represented by coalition advocacy.
- Oversaw various trade association committees, task forces and working groups that covered topics such as genetic engineering, food waste and date labeling and environmental and workplace safety.
- Served as legal counsel to trade association by overseeing active litigation, handling in-house discovery, monitoring association activities for antitrust issues, and managing trade association trademarks and intellectual property.



## Recognition

- J.D. Supra Readers' Choice Awards, Top Author: Food & Beverage, 2020

## Education

- J.D., Vermont Law School
  - *magna cum laude*
  - *Vermont Law Review*, Head Note Editor; Grievance Board; Staff Editor
- B.S., University of Illinois at Urbana-Champaign
  - honors in animal sciences; minor in environmental economics and law

## Admissions

- Illinois
- District of Columbia

## Community Leadership

- Greater Washington, DC, Illini Club, Board of Directors



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