



Kim Bousquet

Partner

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PRACTICES

- Food & FDA
- Agriculture
- Cannabis & CBD
- Environmental
- Litigation
- Class Action & Multi-District Litigation

EDUCATION

- University of Oregon School of Law, J.D., 2004, Order of the Coif, Certificate in Environmental Law
- University of Arkansas School of Law, LL.M. in Food and Agricultural Law, 2021
- University of Oregon, M.S., Environmental Studies, 2004
- Drury University, B.A., Biology, cum laude, 2000
- Food Safety Training, Produce Safety Rule, Preventive Controls for Animal Food (PCQI), Foreign Supplier Verification Act

ADMISSIONS

- Illinois
- Missouri
- US Ct Appeals, 8th Circuit (Covers AR, IA, MN, MO, NE, ND, SD)

Kim is a litigator and counselor based in St. Louis, Missouri. Kim routinely handles litigation and pre-litigation disputes for companies in the agriculture, agribusiness, biotechnology, food, animal/pet food, and manufacturing industries. Kim practices throughout the country in federal courts, state courts, before regulatory bodies, and in alternative dispute resolution forums such as the BBB National Advertising Division, the American Arbitration Association, and other arbitral forums.

Kim also advises food and agriculture industry clients on FDA, USDA, and state/local regulatory compliance, as well as related litigation risks. Most recently, Kim's work has involved food and beverage labeling compliance in general, specific product claims on package and advertisements (such as "all natural", "fresh", and "no artificial flavors"), restaurant menu labeling, seed contamination litigation, competitor false advertising, aspects of the Food Safety Modernization Act, Food Code compliance, pesticide drift liability, foodborne illnesses, and regulatory actions by the USDA and FDA.

Kim also collaborates closely with partners in Thompson Coburn's corporate practice group to provide regulatory advice and guidance for supply contracts.

Kim serves as the co-chair of Thompson Coburn LLP's food and agriculture litigation practice area, is the editor of the firm's Food Fight Blog and is a board member of the American Agricultural Law Association.

Kim works diligently to stay abreast of current industry and legal issues affecting food, beverage and agribusiness companies. She serves as an editor of the Firm's Food Fight blog, which is dedicated to delivering relevant industry insights and timely legal updates to food and agriculture industry stakeholders. Kim understands the importance of timely information in this ever-changing regulatory environment. You can check out Food Fight here: <https://www.thompsoncoburn.com/insights/blogs/food-fight>.

REPRESENTATIVE CLIENTS

- Panera LLC
- Nestle Purina
- Bayer (former Monsanto)
- The Honest Kitchen
- The Western Sugar Cooperative
- Riceland Foods, Inc.
- Roeslein Alternative Energies
- Beast Craft BBQ Co.
- Namaste Foods, Inc.

AFFILIATIONS

- American Agricultural Law Association, Board of Directors, 2019-Present, Board Liaison, Distance Education Committee, Former Chair, Food Law Program Sub-Committee, Membership and Program Committees, 2016-2018
- American Bar Association: Section of International Law
- St. Louis Agribusiness Club, Member

EMPLOYMENT

- Thompson Coburn LLP Partner, 2014-Present Associate, 2007-2013
- Supreme Court of Missouri Law Clerk to the Honorable Michael A. Wolff, 2005-2007
- Missouri Attorney General's Office Assistant Attorney General, 2004-2005 General Counsel for the Missouri State Board of Nursing

COMMUNITY

- Missouri Department of Conservation, Missouri Master Naturalist

Since joining Thompson Coburn in 2007, Kim has served as a key member of several defense teams working on ground-breaking litigation related to the release of genetically engineered seeds. These types of lawsuits involve complex and novel legal and factual issues, numerous parties and industry stakeholders, extensive legal research and writing, and multiple consumer and business claims. The litigation also touches on legal issues all along the food chain and scientific advances in genetic engineering technology. Through this and other work, Kim is highly experienced in class actions, multi-district litigation, federal court litigation, e-discovery and document retention, legal research, legal writing and written discovery.

Kim's interest in agriculture and food law is deeply rooted. She grew up in rural Missouri surrounded by farms and farmers and was active in the Future Farmers of America. In college, Kim studied plant biology, genetics, chemistry, ecology and other life sciences. She expanded this base knowledge during law school by concurrently pursuing a Master's degree in Environmental Studies, which helped her develop an understanding of the interplay between biological and ecological principles and modern food production, and specifically how advances in technology have revolutionized the way the U.S. produces and distributes food. At the same time, Kim pursued a certificate in Environmental Law that helped her understand the regulatory environment overlaying the food and agricultural industries. Kim is continually learning more about this industry through writing, seminars and speaking engagements, industry involvement and collaboration with colleagues. Part of this education process has been pursuit of a Masters of Law degree in Agricultural & Food Law from the University of Arkansas, which she will receive in May 2021.

Recognitions

- Included in Missouri & Kansas Super Lawyers (by Thomson Reuters) Rising Stars list, 2012-2020

Experience

- **Representing national fast casual restaurant chain in putative class action regarding delivery fees and related representations**
- **Defense counsel in claims involving alleged foodborne illnesses**
- **Represented national packaged food company in defense of false origin claim, resulting in dismissal of the case**
- **Represented multiple foods product manufacturers in defending putative class action claims related to "natural" or "no preservative" representations or allegedly bioengineered or GMO ingredients, resulting in dismissal of claims or favorable settlements**
- **Review of food labels and advertising campaigns, including social media and website content**
- **Handled "natural" and "no artificial" cases and/or reviewed labels for human or pet food with the following ingredients in dispute: sorbic acid, citric acid, monocalcium phosphate, Xanthan gum, and other ingredients.**
- **Advised clients on restaurant menu labeling allergen and content statements.**
- **Advised CBD manufacturer on regulations governing marketing of**

edible CBD products

- **Advised major pet food manufacturer on competitor label violations related to health and origin claims**
- **Advised multiple food, dietary supplement, pet food, and beverage companies on label regulatory requirements and advertisement claims including "made with real" fruits and vegetables, "natural" and "all natural," "no added preservatives," organic, vegan, halal, health claims, nutrient content claims (i.e., "zero net carbs" or "no sugar"), and others**
- **Advised national packaged food company on making "made in USA" and "fresh" claims**
- **Advised clients in litigation relating to claims involving the Food Safety Modernization Act.**
- **Key member of the defense team that secured a walk-away result for a firm client in a case alleging trade secret theft where the plaintiff sought lost profits damages of over \$50 million. This successful resolution followed the implementation of a litigation strategy designed to expose key weaknesses in the plaintiff's claims.**
- **Worked on a groundbreaking appeal for a major agribusiness in a suit filed under the United States Warehouse Act. The resulting decision staved off an attack by another agribusiness that attempted to force the client to accept modified crops at its warehouses. The case was an issue of first impression before the 8th Circuit, and the favorable ruling allowed the client to determine its own strategy for accepting certain GMO crops.**
- **Primary author of a successful opposition to a motion for class certification in federal court. The resulting order was one of the first to articulate the ways in which the proposed injunction class did not meet the standard of seeking "primarily injunctive or declaratory" relief because the facts and circumstances alleged made clear that the primary intent of the litigation was monetary damages.**
- **Primary author of a successful motion for summary judgment on a complex standing issue that allowed the client to proceed to trial with all of its requested damages categories intact.**

Presentations

- "Food and Beverage Consumer Labeling Litigation" American Agricultural Law Association Webinar April 2021
- "Cottage Food Laws" Fund17" September 2020
- "You Said What to Whom? An Attorney Client Update" American Agricultural Law Association August 2020
- "Food Safety Regulation and Litigation: Minimizing the Risk of Product Liability Claims" Strafford Publications Webinar February 2019
- "Trends in Consumer Litigation: Exploring Claims, Defenses, and Liability Risks in Consumer Suits Against Food Companies" American Agricultural Law Association Annual Symposium October 2018
- "Where's the Beef? Hot Topics in the Regulation of Food Disruptors: Lab-Created Protein and Gene Editing" (moderating) American Agricultural Law Association October 2018

- "Managing Risks Through Food Safety Programs" Food & Beverage Litigation Conference: A Look at Hospitality, Liquor and Food Liability, Chicago, Illinois October 2018
- "Just Label It, Correctly: Advising Clients on Emerging Food Labeling Issues" American Agricultural Law Association Symposium October 2017
- "Statutory Changes, New Regulations, and Compliance Deadlines Under the Food Safety Modernization Act" TCLE October 4, 2016
- "Recent Changes in Food Law: Regulation, Litigation and Legislative Updates" American Agricultural Law Association Symposium October 2016
- "Managing the Liability Risks of GMO Products" (moderating) American Agricultural Law Association Annual Symposium October 2017
- "The Future of the Profession"; Missouri Bar CLE, January 2016

Publications

- "Farm and Food Worker Inequity Exposed and Compounded by COVID-19" *Journal of Food Law and Policy* (Forthcoming)
- "A meticulous food safety plan today avoid handcuffs tomorrow" *Journal of Food Law and Policy* Fall 2018
- "GMO labeling; an emerging food labeling issue" *Drake Journal of Agricultural Law*, Vol. 23.1 Spring 2018
- "Class cert denied in baby food false labeling case: faulty regression model to blame" *Food Fight Blog* February 2018
- "Can the ingredient list defense work? Look for ambiguity, invoke common sense" *Food Fight Blog* January 2018
- "The USDA's bioengineered food disclosure standard: Where are we now?" *Food Fight Blog* November 2017
- "Slack-fill lawsuits filling up state court dockets" *Food Fight Blog* December 2016
- "Is the FSMA a plaintiff's lawyer's dream and the food industry's nightmare?" *Life Sciences Decoded Blog* December 2016
- "Updated FSIS guidance on raising animal label claims" *Food Fight Blog* November 2016
- "5 legal trends food and agriculture companies need to know about" *Food Fight Blog* October 2016
- "Ninth Circuit holds juries can decide the definition of 'natural'" *Food Fight Blog* October 2016
- "Farming through the eyes of an ag lawyer" *Food Fight Blog* September 2016
- "Protecting food industry whistleblowers: FDA, OSHA team up under

FSMA" *Life Sciences Decoded Blog* August 2016

- "Not so Wonderful: What the food industry can learn from Pom's faulty health claims" *Food Fight Blog* July 2016
- "What food, packaging and agribusinesses need to know about the first-ever nationwide GMO labeling law" *Food Fight Blog* July 2016
- "Education malpractice and student litigation: Achieving early dismissal"; *REGucation Blog*, May 2016
- "Education malpractice and student litigation: How to assess claims"; *REGucation Blog*, May 2016
- "Education malpractice and student litigation: New lessons learned"; *REGucation Blog*, April 2016
- "Recent Cases Addressing the Educational Malpractice Doctrine: Three Key Lessons for Defending Against Student Claims"; *Career Education Review*, April 2016
- "4 takeaways for higher ed from the Alabruda student lawsuit verdict"; *REGucation Blog*, March 2016
- "9th Circuit sends herbicide debate back to the EPA"; *Food Fight Blog*, February 2016
- "EPA sets flip-flopping precedent, reversing prior pesticide registration"; *Food Fight Blog*, December 2015