

OUR PRACTICE

Food and Beverage

Baker Donelson's interdisciplinary team of attorneys provide comprehensive legal counsel to domestic and cross-border clients that manufacture, distribute, and sell a variety of foods, including meat and poultry, processed foods, seafood, fruit and vegetables, seasonings and spices, and beverages. We also represent companies that serve the food and beverage industry, including staffing firms, logistics, refrigerated storage, cooperatives, and related enterprises critical to food and beverage manufacturing and sale.

We assist clients in every stage of food and beverage manufacturing and distribution including business transactions, commercial matters, cybersecurity, employment issues, lending and restructuring, litigation, intellectual property, and regulatory compliance. Our attorneys regularly advise clients on regulations governing labeling, food ingredient disclosures, import and tariff issues, weights and measures, and net contents disclosures and represent them in matters involving various state and federal agencies such as the Food and Drug Administration (FDA) and the United States Department of Agriculture (USDA).

When contamination events and product recalls occur, [Baker Donelson's Food and Beverage Incident Response team](#) is available 24/7/365 to provide real-time legal advice. Our experienced team of lawyers and advisors work with food manufacturers across the U.S., to prepare for and execute recalls and manage communication with regulatory agencies and the public. We work with clients on the development and implementation of robust incident preparedness plans.

Our team can provide counsel for your food and beverage business in the following areas:

Antitrust

Clients in the food and beverage industry rely on us to provide antitrust advice on issues ranging from distribution agreements to defending antitrust cases. Our antitrust litigation experience includes multidefendant nationwide class actions, multidistrict litigation, state class action cases, and state attorney general suits. We also advise clients in state and government investigations, criminal antitrust matters, mergers, and transactions before federal agencies (including Hart-Scott-Rodino filings), and Robinson-Patman Act price discrimination and resale price maintenance issues. Our antitrust attorneys counsel Fortune 500 clients on horizontal and vertical matters, monopolization, benchmarking, acquisitions, and consumer protection issues.

Corporate

We represent food and beverage companies in complex financings, mergers, acquisitions, and restructurings, "roll-up" and "carve-out" transactions, public and private offerings, capital markets and lending transactions, executive compensation issues, corporate governance, ESG investments, corporate finance, tax and related services, strategic business planning, entity formation, and domestic and cross-border commercial transactions. We also have substantial experience in the complexities of production/supply agreements, distribution agreements, commercial contracts, and similar matters our food and beverage clients address on a day-to-day basis.

Corporate Restructuring and Bankruptcy

Our lawyers have been deeply involved in complex food and beverage workouts, recapitalizations, distressed sales and acquisitions, and bankruptcies. We have represented virtually every constituency in such matters including senior lenders, junior lenders, creditors' committees, key suppliers and distributors, and distressed

companies. We have multiple restructuring lawyers licensed in Delaware and Houston – the two most prevalent bankruptcy courts. Our work on issues under the Perishable Agricultural Commodities Act (PACA) in insolvency matters is nationwide, and our writings in this arcane area have been cited by multiple courts. Likewise, we have substantial experience working with agricultural lenders, both on origination and throughout the lifecycle of the loan, including default issues in agricultural loans. Distressed matters in the food and beverage industry require a unique level of familiarity that Baker Donelson attorneys can ably demonstrate.

Compliance and Regulatory

We assist clients in navigating complex regulatory issues and premarket approval/clearance processes as well as compliance and enforcement challenges. Our team represents processor and producer groups in proceedings before the FDA, the USDA, and various state agencies in matters such as the Perishable Agricultural Commodities Act (PACA), the National Organic Program (NOP), the Food Safety Modernization Act (FSMA), GRAS Affirmation Notification (GRASN), and food additive petitions. Our attorneys also counsel clients on food labeling requirements under the Nutrition Labeling and Education Act (NLEA) as well as other labeling issues such as those related to artificial growth hormones and cloning, food allergens, food safety, and standards of identity as well as food health and other label claims. We assist and represent clients in matters involving food current good manufacturing practices (CGMPs) and inspections, food product recalls, seizure actions, as well as government or private litigation involving food products. Our team is also experienced in serving as regulatory counsel in mergers and acquisitions.

Data Protection, Privacy, and Cybersecurity

With the increase in bad actors targeting essential industries such as food manufacturing; data protection and cybersecurity are more important than ever. Our team collaborates with the more than 30 attorneys on Baker Donelson's Data Protection, Privacy, and Cybersecurity Team who are experienced in all areas of information management, from privacy and data security planning and design to compliance, data breach, and litigation management. They also provide guidance on technology vendor contracts, digital marketing compliance, and artificial intelligence best practices.

Environmental, Health, and Safety

With extensive experience in traditional air, water, and waste programs, we work with business clients to streamline permitting, ensure proactive compliance, and manage environmental risks and costs. Our environmental lawyers work regularly on the Resource Conservation and Recovery Act (RCRA) generator and treatment, storage, and disposal facility (TSDF) issues; state and federal Superfund sites and brownfield developments; the national pollutant discharge elimination system (NPDES) and pretreatment permits; Title V and other air permitting; litigation, risk management including "greenwashing" issues, and chemical regulation under Toxic Substances Control Act (TSCA); the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); and California Proposition 65. In addition, our lawyers have advised and represented clients on compliance, strategy, and risk management surrounding the use of per- and polyfluoroalkyl substances (PFAS) in products and packaging.

Labor & Employment

We provide full-service labor and employment legal services, from helping food and beverage clients create policies and implement effective training, to wage and hour, Equal Employer Opportunity Commission (EEOC) charges, workers' compensation, Occupational Safety and Health Administration (OSHA) compliance, labor laws, and reduction in workforce, among other legal and operational issues. We provide counseling, training, and strategic advice on all employment-related laws and regulations, and when necessary, we defend our clients in district and federal courts across the country. Additionally, we provide strategic guidance and immigration counseling services to companies and their employees, including immigrant and non-immigrant visa processing. Baker Donelson's attorneys regularly appear before the National Labor Relations Board (NLRB), the EEOC, the Department of Labor (DOL), and occupational health and safety boards.

Licensing

We assist clients with their business and alcoholic beverage licensing and permitting matters, including preparing and submitting licensing and permitting initial applications and renewals and interfacing with appropriate state and local government entities, boards, and departments when processing such applications. We also assist clients with ensuring compliance with various state and federal laws related to business and alcoholic beverage licensing and permitting requirements by conducting compliance reviews of policies and procedures and helping clients respond to notices of violations of their business and alcoholic beverage licenses and permits.

Litigation

We represent companies in the food and beverage sector in significant litigation, multidistrict litigation (MDLs), and class actions involving product labeling and food safety matters. We defend food product manufacturers, major food retailers, and distributors in litigation matters in state and federal courts across the country. When insurance issues arise from recalls or contamination events, we advise clients on coverage questions and litigate insurance claims to safeguard our clients' financial stability and operational integrity. Our experience enables us to navigate complex legal challenges effectively, helping our clients maintain their reputation and compliance in this highly regulated industry.

Logistics and Supply Chain

Our logistics and supply chain experience allows our attorneys to support food and beverage manufacturing clients in navigating the complexities of their operational frameworks. We assist clients in addressing disruptions within the supply chain, ensuring compliance with Department of Transportation (DOT) and Federal Aviation Administration (FAA) regulations, and managing appropriations concerns. Our team is equipped to provide [24-hour emergency accident investigation assistance](#), helping clients respond swiftly and effectively to unforeseen incidents that may impact their operations. With a deep understanding of the industry's unique challenges, we deliver strategic legal guidance to enhance resilience, minimize risks, and ensure smooth, compliant logistics processes.

Trade and Investment

We provide service to food and beverage clients that operate both domestically in the U.S., and globally. Our international trade and corporate cross-border team offers comprehensive support in site selection and the expansion of existing facilities, helping clients navigate the complexities of economic incentives and regulatory requirements. We assist with a range of issues, including export and import regulations, tariff matters, and supply chain optimization. Additionally, we provide strategic guidance on reshoring manufacturing or distribution operations to enhance operational efficiency and competitiveness.