ALSTON & BIRD

Samuel D. Jockel

Senior Associate

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Related Services

Litigation ▪ Class Action & Multidistrict Litigation ▪ Toxic Torts ▪ Products Liability ▪ FDA/Food, Drug & Device ▪ Food, Beverage & Agribusiness ▪ Health Care ▪ FDA Compliance & Enforcement ▪ Corporate Social Responsibility & Sustainability ▪ Perfluoroalkyl & Polyfluoroalkyl Substances (PFAS)

Combining his previous roles at both the FDA and USDA, Sam brings an insider perspective to clients navigating complex regulatory compliance and enforcement issues.

Sam Jockel focuses his practice on regulatory, policy, and litigation matters involving the FDA, the USDA, the FTC, and state regulatory agencies related to food, beverages, cosmetics, dietary supplements, animal products, and drugs. From ingredient suppliers to manufacturers to distributors to retailers, Sam's approach to counseling clients leverages his prior service as a trial attorney in USDA's Office of the General Counsel and an Oak Ridge Institute for Science and Education Fellow at the FDA. While at the USDA, Sam received the General Counsel's Award for Excellence.

Sam advises clients on a range of matters, including product and ingredient commercialization, regulatory compliance, import and export, supply chain management, and labeling and advertising. Sam counsels clients across multiple product categories through enforcement actions and potential crises, including in response to import detentions, inspectional findings, recalls, warning letters, and civil and criminal investigations and actions. Sam also has substantial experience on USDA regulatory issues, including on bioengineered food disclosure, the Perishable Agricultural Commodities Act (PACA), and organic labeling (AMS); meat, poultry, and egg products regulatory matters (FSIS); the import of animal and plant products, animal welfare (APHIS); and on SNAP compliance (FNS).

Representative Experience

Food and Dietary Supplements

- Counseling marketers of human and animal food and dietary supplements on regulatory compliance and risk mitigation strategies associated with product labeling and advertising claims.
- Counseling clients on the regulatory and litigation landscape surrounding the development and marketing of novel products, including alternative proteins, bioengineered foods, and CBD-containing products.
- Drafting public comments on behalf of clients in response to rulemaking proceedings, including in response to the FDA's proposed update to the use of the term "healthy" on food labeling.
- Negotiating various transactional agreements including purchase orders, purchase agreements, and distribution agreements on behalf of companies across the supply chain.
- Providing strategic regulatory support to companies facing threatened or actual consumer class action, NGO, and competitor litigation. Representative matters include a broad spectrum of challenges to labeling and marketing claims, including health halo and natural claims, product origin claims, environmental and "green" claims, ingredient (flavor, protein, sugar) claims, and the presence of alleged chemical contaminants, such as PFAS.

- Advising food retailers, including restaurants, kitchens, and third-party delivery services on navigating local and state food and food packaging regulatory requirements.
- Advising brick-and-mortar and online food retailers on compliance with USDA's Supplemental Nutrition Assistance Program (SNAP).
- Counsel to infant formula manufacturers on compliance with FDA requirements, including navigation of the FDA's 2022 enforcement discretion policy.
- Assisting clients in the evaluation of the regulatory status of human and animal food ingredients and food contact substances, including in preparation of GRAS self-determinations and in food additive petitions.
- Advising ingredient suppliers, food processors, and food warehouses on food safety obligations under the Food Safety Modernization Act, including preparing food safety plans for compliance with Hazard Analysis and Risk-Based Preventive Controls requirements.
- Providing regulatory advice and due diligence on mergers and acquisitions in the food and dietary supplement industries.
- Counseled a client in engagement with the FDA in response to a foodborne illness outbreak investigation and issuance of a warning letter, including drafting a response letter that averted further enforcement action.
- Defended and successfully resolved a major administrative action brought by USDA under the Animal Health Protection Act and the Plant Protection Act.
- Represented numerous clients to successfully obtain release of detained products held by FDA at import.
- Represented a produce grower in successfully petitioning the USDA's National Organic Program in obtaining reinstatement of the client's organic certification following suspension by an organic certifying agent.

Cosmetics and Drugs

- Assisting cosmetics companies on developing marketing claims to minimize regulatory and litigation risk and advising on the regulatory status of ingredients.
- Advising manufacturers on compliance with OTC monograph requirements.
- Representing domestic and foreign pharmaceutical manufacturers regarding FDA inspections, responses to Form 483 and warning letters, and preparation for FDA regulatory meetings.
- Represented an individual in DOJ, DEA, and state medical board investigations involving alleged drug misbranding violations.

Publications & Presentations

Publications

- "What to Do When Things Go Wrong with Your Organic Certifier?" *Mushroom News*, May 2023.
- "Marketing Best Practices Amid FTC Green Guide Review," *Law360*, March 14, 2023.
- "Top Regulatory Issues for Food & Beverage Companies to Watch for in 2022," *Food Manufacturing, December 23, 2021.*
- "Recent Alcoholic Beverage Labeling Suits Offer Best Practices," *Law360*, November 17, 2021.
- "All You Need to Know about Bioengineered Food Disclosure Compliance," *New Food Magazine,* June 9, 2021.

- "Bioengineered Food Disclosure Compliance: Practitioners' Perspective on What Lies Ahead," *Drake Journal of Agricultural Law*, Vol. 26, No. 1, Spring 2021.
- "The Approaching Bioengineered Food Disclosure Deadline: Enforcement and Litigation Landscape After January 1, 2022," *Food and Drug Law Institute,* Spring 2021.
- "Food Ingredient GRAS Conclusions: What You Should Know," *Food Manufacturing,* February 15, 2021.
- "Pending Regulatory Developments for Food Innovators: Microorganisms, Cell Cultures and COVID's Impact," *Food Manufacturing,* December 10, 2020.
- "The Top 5 Regulatory Issues for US Food Launches in 2021," *New Food Magazine,* December 8, 2020.
- "Navigating Employee Health and Food Safety for Human and Animal Food Operations: Key Considerations from OSHA and FDA," *Occupational Health & Safety*, October 9, 2020.
- "FDA Holds Scientific Workshop on Youth E-Cigarette Cessation Treatment Strategies," *Update Magazine*, Food and Drug Law Institute (FDLI), April/May 2019.
- "Spotlight on Tobacco – Future Developments in the Regulation of Electronic Nicotine Delivery Systems: Potential Over-the-Counter Pathway," *Update Magazine*, Food and Drug Law Institute (FDLI), October/November 2018.
- "Fulfilling the Promise of Gideon in Massachusetts: Providing a Post-Conviction Right to Counsel for Prisoners Asserting Innocence," *Boston University Public Interest Law Journal*, Vol. 26, No. 2, 2017.

Presentations

- "Sustainability & Environmental Marketing Claims," Food Label Seminars 2023, webinar, October 26, 2023.
- "The Fixer: Effective Crisis and Reputational Risk Management Strategies," 11th Annual FoodBev Exchange, Chicago, IL, October 9–10, 2023.
- "RTD Revolution: Navigating the Legal Landscape of Ready-to-Drink Cocktails," DISCUS 2023 Annual Conference, Chicago, IL, June 13-15, 2023.
- "Sustainability & Environmental Marketing Claims," 34th Annual Food Label Conference, Washington, D.C., June 4-7, 2023.
- "All You Need to Know about Modernization of Cosmetics Regulation Act of 2022 (MoCRA)," 10th Annual Legal, Regulatory, and Compliance Forum on Cosmetics & Personal Care Products, New York, NY, March 27, 2023.
- 30th Annual Symposium on Alcohol Beverage Law & Regulation, National Alcohol Beverage Control Association (NABCA), Arlington, VA, March 12-14, 2023.
- "2023 CPG Legal Forum," Consumer Brands Association, Scottsdale, AZ, February 22-24, 2023.
- "National Bioengineered Food Disclosure Standard – Six Month Check-In," American Agricultural Law Association, webinar, August 4, 2022.
- "Food and Food Contact Safety: Evolving Environmental Challenges," FDLI's Virtual Law Over Lunch: July, July 21, 2022.
- "Bioengineered Labeling: Updates and Enforcement Priorities," 33rd Annual Food Label Conference, webinar, June 7-8, 2021.
- "USDA AMS National Bioengineered (BE) Food Disclosure Standard Rule," Refrigerated Foods Association, webinar, September 18, 2019.

- "Biotechnology Disclosure Act and Labeling Requirements," Grocery Manufacturers Association Science Forum, Washington, D.C., March 26-28, 2019.
- "USDA's Proposed Bioengineered Food Disclosure Standard – Key Issues and Next Steps," Food and Drug Law Institute, webinar, June 14, 2018.

Professional & Community Engagement

- American Bar Association
- Food & Drug Law Institute
- National LGBTQ+ Bar Association

Education

- Boston College (J.D., 2014)
- Johns Hopkins University (B.A., 2011)

Admitted to Practice

- Pennsylvania
- District of Columbia