

# Food & Beverage

In an era of heavy regulation, changing consumer demand, labeling disputes, product recalls, and brand vulnerability, Cozen O'Connor provides comprehensive legal services to the food and beverage industry. Our attorneys represent clients operating at every point along the supply chain and involving all product lines — from snack foods to pet foods and from alcoholic spirits to dietary supplements.

## Food & Beverage Litigation

- Complex and multi-jurisdictional class action lawsuits alleging consumer protection law violations.
- Individual and mass torts alleging contamination or product defects and resulting personal injuries.
- Hybrid claims combining class action and traditional product liability claims.
- Commercial disputes between competitors and among participants in the supply chain.
- Crisis management, including regulatory notifications, product retention, and brand protection.

## Food & Beverage Regulations

- Federal regulations promulgated and overseen by the Food and Drug Administration, U.S. Department of Agriculture, Federal Trade Commission, and federal import/export authorities.
- State-based regulations, including California's Proposition 65 and "Made in the USA" law.
- Packaging, labeling, branding, product placement, social media, and advertising.
- Government relations and advocacy at the federal and state level.

## Food & Beverage Related Services

- Intellectual Property handles patents, trademarks, copyrights, trade dress, trade secrets, and domain names.
- Mergers & Acquisitions negotiates sales and purchases of assets or stock, mergers, joint ventures, consolidations, spin-offs and roll-ups, and recapitalizations.
- White Collar responds to civil/criminal investigations, enforcement, and prosecutions, including under the Foreign Corrupt Practices Act, False Claims Act, and criminal antitrust statutes.
- Employment Litigation defends wage and hour, donning and doffing, discrimination, EEOC, and non-solicit and non-compete claims.
- Commercial Litigation handles all commercial claims, including contract disputes, business torts, and defamation actions.

We understand the priorities of food and beverage companies, so we know that a positive brand image is in many ways their most valuable asset. Cozen O'Connor handles every deal and every dispute with absolute discretion and a commitment to protecting our client's brand and hard-earned reputation.

## Experience

Represented Utz Quality Foods, LLC (NYSE: UTZ) and an affiliate of Utz in their \$19 million sale of two manufacturing plants to affiliates of snack maker Our Home.

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Obtained a favorable ruling in Supreme Court, New York County, on behalf of Mario Batali and Lidia Bastianich in a suit brought by a neighboring property owner who alleged that the air conditioning units and kitchen exhaust pipe at the clients' restaurant, Babbo, were in violation of New York City's building code, and that newly installed air conditioning units were too noisy and caused vibrations. Our team obtained evidence that played a significant role in the Court's decision by personally climbing to the top of the building to photograph the allegedly offending machinery.

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**Simeon D. Brier**

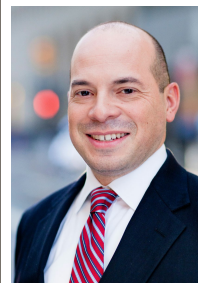
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## Related Practice Areas

- CODISCOVER (eDiscovery)
- Corporate
- Employment Litigation
- Immigration Policy & Strategy
- Intellectual Property
- Italy Practice
- Labor & Employment
- Mergers & Acquisitions

Represented Investindustrial, a private equity firm based in London, in its acquisition of a majority stake in Eataly S.p.A., the global chain of upscale Italian marketplaces. This transaction drew on the experience of the firm's Corporate, Real Estate, Employee Benefits & Executive Compensation, Intellectual Property, and Technology, Privacy, & Data Security attorneys.

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Represented J&J Snack Foods Corporation, a snack foods and frozen beverages company, in its \$222 million acquisition of the equity securities of Dippin' Dots Holding, L.L.C., the owner of Dippin' Dots, LLC, maker of flash-frozen and beaded ice cream, and Doc Popcorn, L.L.C., the maker of the Doc Popcorn brand of popcorn.

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Represented Continuum Foods, a start-up food manufacturer, in its acquisition of the assets related to the "Original Trenton Cracker" (OTC) oyster cracker business from specialty food manufacturer Panorama Foods, Inc. This transaction drew on the experience of the firm's corporate and intellectual property attorneys.

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Represented United States Distilled Products, Co., a producer and distributor of alcoholic products, in a large financing and acquisition of brands Leroux and Kamora from Beam Suntory, Inc., an American multinational producer of alcoholic beverages that is owned by a Japanese holding company. This transaction drew on the experience of the firm's corporate and intellectual property attorneys.

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Represented The Bottle Cru in its acquisition of The Seller Door, LLC, which operates liquor stores in New York.

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Represented Darco Capital, the family office investment vehicle of David J. Adelman, in its acquisition of American Harvest Vodka and Beach Whiskey brands of distilled spirits and liquors.

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Represented an owner of McDonald's franchises in a senior secured credit facility valued at \$15.5 million to refinance existing debt and for working capital purposes.

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Represented a Kentucky distiller of American Brandy and other spirits in the sale of stock by shareholders holding 70 percent of the stock in the company to an industry-leading, strategic buyer.

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Represented Utz Quality Foods, LLC (NYSE: UTZ) in its business combination transaction with Collier Creek Holdings, a consumer goods special purpose acquisition company (SPAC), to form Utz Brands, Inc. The result of this business combination was that the almost 100-year-old family-owned Utz became a public company. The transaction valued Utz in excess of \$1.5 billion. The business combination was structured as an Up-C transaction.

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Defended a Fortune 500 consumer packaged food company/ food manufacturer in class action litigation, comprised of more than 100 federal and state actions seeking relief for individuals who purchased allegedly contaminated pet foods from various manufacturers, distributors and retailers.

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Represented a snack food manufacturer in several class action lawsuits filed throughout the U.S. alleging misrepresentations of the fat and caloric content of its products.

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Represented a major food manufacturer in class action litigation involving claims of violations of state consumer protection and deceptive trade practices statutes.

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Provided counsel to large and small food manufacturers on country of origin labeling issues.

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Represented a snack food distributor in the defense of numerous claims alleging gastrointestinal injuries due to the consumption of snacks contaminated with various strains of salmonella following a U.S. Food and Drug Administration press release and a nationwide product recall.

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- Product Liability
- Product Regulatory & Compliance
- Trade Secrets, Restrictive Covenants, and Computer Abuse

Provided counsel to a snack food distributor for the protection of its brand image and integrity.

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Represented North America's leading food service marketer and distributor in litigation arising out of the shipment of possibly tainted green onions that allegedly caused one or more deaths and injuries.

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Provided consultation to a number of clients in products liability claims involving exposure to diacetyl, a chemical component contained in the butter flavoring used in microwave popcorn, among other things.

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Defended a Fortune 500 food manufacturer in an action brought by an individual who claimed to have suffered mercury poisoning from the consumption of tuna.

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Served as national trial counsel for the insurers of a leader in the weight loss industry to defend cases brought by hundreds of program participants who alleged gallbladder disease attributed to the insured's food products. Working with the nation's foremost authorities on gallstone formation in relation to diet and one of the nation's leading gastroenterologists, we were able to establish that the diet was not related to the disease complaints.

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Represented a leading fast food restaurant and a nationwide seller of mushrooms in food labeling, warning, and preparation cases.

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Represented the insurers of the world's largest food and beverage company in a series of nationwide class action law suits alleging heavy metal contamination in chocolate which cases were successfully dismissed.

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Successfully assisted one of the largest frozen seafood importers with the dismissal of a \$1.5 million wrongful death case in federal court in New Jersey, where a plaintiff alleged he had eaten bad mussels that caused vibrio cholera.

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Successfully represented an international specialty food distributor in the defense of its pickled herring product in a food poisoning case filed in Santa Monica Superior Court. The plaintiff claimed to have suffered permanent injury to his respiratory system due to the consumption of the product.

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Represented U.S.-based distillers and beverage companies in the development of China distribution agreements/distribution network, and on export matters.

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Represented Vetri Management Corp. in connection with its management agreement with Palms Casino Resort for the opening of Vetri Cucina in Las Vegas.

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Managed the successful purchase of assets of New York-based specialty coffee shop chain and high-end chocolatier, FIKA, out of Chapter 11 bankruptcy proceedings. The assets were purchased by an acquisition vehicle comprised of a non-insider family group of investors, the existing management of FIKA, and the largest secured lender to FIKA. In addition to forming the acquisition vehicle and managing the acquisition out of bankruptcy, the representation involved handling a financing transaction through which FIKA's pre- and post-petition operations were funded, and ensuring the continuity of management through new employment agreements for selected management personnel.

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Represented the owners in the sale of more than 25 franchises in eastern Pennsylvania and New Jersey, and exclusive territorial rights, to a growing franchisee. The owners sold the business operations only, with the franchisee continuing to lease many of the restaurants from the sellers. This transaction drew on the experience of the firm's corporate; tax; real estate; technology, privacy, and data security; franchising; and labor and employment attorneys.

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Won summary judgment on behalf of a Fortune 100 grocery client in case, filed in the Northern District of Georgia, involving claims of race discrimination brought under Title VII and Section 1981, as well as unpaid overtime brought under the Fair Labor Standards Act.

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