



Richard Fama

Member

New York

rfama@cozen.com | (212) 908-1229

Rich has a national reputation for successfully representing businesses in complex litigation and consumer class action lawsuits in state and federal courts throughout the United States.

He regularly defends companies in the food, pet food, beverage, dietary supplement, cannabis, and consumer products industries in labeling and advertising claims, class action consumer fraud actions, product liability lawsuits, mass and toxic tort litigation, and business disputes. Understanding and appreciating the costs, distractions, and potential reputational damage associated with litigation, Rich actively assists companies in mitigating their risks of litigation by advising them on litigation trends and regulatory compliance. Specifically, he advises clients on applicable federal, state and industry regulations, guidelines and standards, including those promulgated by the Food and Drug Administration, U.S. Department of Agriculture, Consumer Product Safety Commission, Federal Trade Commission and the Association of American Feed Control Officials. He also regularly advises clients on compliance with California's Proposition 65, country of origin or so-called "Made-in-the-USA" claims, and recent state regulations governing PFAS in product packaging. Rich successfully argued before the Ninth Circuit Court of Appeals on the applicability of California's "Made-in-the-USA" labeling law. Rich also guides clients through the complexities associated with consumer and food product recalls.

Rich frequently speaks on consumer class action and product regulatory and product liability issues and has authored and co-authored several articles on class action litigation and product regulatory compliance, including compliance with Made-in-the-USA labeling laws.

Experience

Represented Utz Quality Foods, LLC (NYSE: UTZ) and certain of its affiliates in the \$167.5 million sale of certain assets and brands to Our Home™, an operating company of Better-for-You brands that includes Real Food From the Ground Up®, Popchips®, and Food Should Taste Good® (Our Home). Under the agreement, affiliates of Our Home purchased the Good Health® and R.W. Garcia® brands (including the entities that owned such brands); the Lincolnton, NC, and Lititz, Pa., manufacturing facilities; and certain related assets. This transaction drew on the experience of the firm's corporate, real estate, tax, intellectual property, labor and employment, employee benefits and executive compensation, environmental, commercial litigation, and technology, privacy and data security attorneys.

Represented Utz Brands, Inc. in its acquisition of the assets related to the Vitner's brand, and related distribution business of Snak-King Corp., for \$25 million.

Representing a major fast food franchisor in multi-state litigation involving allegations of E.coli exposure.

Representing a Fortune 500 food manufacturing company in national litigation involving alleged Salmonella exposure following its voluntary recall of one of its products.

Practice Areas

- Product Regulatory & Compliance
- Appellate & Supreme Court
- Class Actions
- Construction Law

Industry Sectors

- Food & Beverage
- Insurance
- Retail

Education

- Hofstra University School of Law, J.D., 1993
- New York Inst. of Technology, B.S., 1987

Bar Admissions

- New York

Affiliations

- Defense Association of New York
- New York State Bar Association
- The Association of the Bar of the City of New York

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P: (212) 908-1229 | F: (866) 263-1334

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Represented a major pet food manufacturer in multidistrict class action litigation involving the alleged presence of melamine in popular pet food and treats.

Won a case of first impression before the U.S. Court of Appeals for the Ninth Circuit affirming a dismissal motion approved by the district court. We represented a major food manufacturer in a putative class action alleging false advertising in its use of "Made in the USA" labels. After the initial complaint was filed, controlling state law was amended. We filed a motion to dismiss under the new law, which was granted with prejudice. That decision was appealed, and the Ninth Circuit ruled in our client's favor that the new law was applicable to existing claims.

Defeated a motion for class certification in a putative class action filed in California state court against our client, a major food manufacturer, alleging that the packaging for a specific type of dog treat misrepresented that the product was "wholesome." The plaintiffs sought approximately \$8.4 million on behalf of the putative class, plus punitive damages and attorneys' fees under California's consumer protection statutes. We defeated class certification, and plaintiffs agreed to drop all claims.

Successfully obtained dismissal of a putative class action against our airline client facing breach of contract, unjust enrichment, and a variety of other claims stemming from alleged false advertising regarding its enhanced economy class. In dismissing the complaint, which carried potential exposure of millions of dollars, the court accepted our arguments that the claims were time-barred and/or preempted.

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. This transaction drew on the experience of the firm's corporate, tax, real estate, commercial litigation, intellectual property, labor and employment, employee benefits and executive compensation, environmental, and antitrust attorneys.

Represented Utz Quality Foods, LLC in its acquisition of Inventure Foods, Inc. in a deal valued at \$165 million. The transaction was completed via a cash tender offer for all outstanding shares of Inventure Foods common stock, followed by a merger of a wholly owned subsidiary of Utz into Inventure Foods pursuant to Section 251(h) of the Delaware General Corporation Law. Inventure Foods will operate as a wholly-owned subsidiary of Utz. Inventure Foods manufactures and sells salted snacks under the brands Boulder Canyon®, TGI Fridays™, Nathan's Famous®, Vidalia Brands®, Poore Brothers®, Tato Skins®, and Bob's Texas Style® and has manufacturing facilities in Arizona and Indiana.

Secured dismissal with prejudice of a consumer fraud putative class action filed against our client, a leading integrated disaster recovery and property restoration services provider, based on allegations that its work authorizations violate New Jersey's Truth-in-Consumer Contract, Warranty, and Notice Act (TCCWNA) by omitting certain information. In dismissing the putative class action, the court accepted our argument that omissions are not actionable under the TCCWNA, and allowed our client to pursue its claim for breach of contract and attorneys' fees.

Won early dismissal for a major food manufacturer of a potentially sizable consumer protection class action claim that alleged false advertising of a product with annual retail sales of more than \$50 million. After winning a critical motion to bifurcate discovery, Cozen O'Connor then filed a motion to show cause, arguing that no class could be fairly defined. Plaintiffs agreed to dismiss the allegations.

Represented Shank's Extracts, Inc., a privately held specialty ingredient, flavoring, and food company with bottling and packaging capabilities, in its \$100 million sale to Universal Corporation, a multinational tobacco and other agricultural products processing company, and the sale by a related party of certain real estate to Universal for an additional \$13 million. Shank's has a strong presence

within the flavoring, extracts, and bottling marketplace, with significant vanilla expertise. In addition to pure vanilla extract products, Shank's offers a robust portfolio of more than 2,400 other extracts, distillates, natural flavors, and colors for industrial and private label customers worldwide. This transaction drew on the experience of the firm's corporate; tax; environmental; intellectual property; employee benefits and executive compensation; business litigation; antitrust; labor and employment; and technology, privacy, and data security attorneys.

Represented Utz Brands, Inc. (NYSE:UTZ) in its \$56 million acquisition of R.W. Garcia Holdings, LLC and certain real estate owned by a related entity. R.W. Garcia Holdings, LLC is a maker of Better-For-You tortilla chips, crackers, and corn chips. The acquisition included manufacturing facilities in Nevada and North Carolina. This transaction drew on the experience of the firm's corporate; tax; real estate; technology, privacy, and data security; intellectual property; labor and employment; business litigation; employee benefits and executive compensation; and environmental attorneys.

Represented Agiliti Health, Inc., a medical equipment management and services company, in its \$230 million acquisition of Sizewise Rentals, L.L.C., a manufacturer and distributor of specialty patient handling equipment. This transaction drew on the experience of the firm's corporate; employee benefits and executive compensation; labor and employment; tax; intellectual property; technology, privacy, and data security; real estate; litigation; environmental; antitrust, and health care attorneys.

Represented Hydrofarm Holdings Group, Inc. (NASDAQ: HYFM), a leading hydroponic equipment and supplies manufacturer, in its \$78 million acquisition of all of the membership interests of Field 16, LLC, a manufacturer and distributor of plant nutrients under the Heavy 16 brand, as well as in its acquisition of House & Garden, Inc., Humboldt Wholesale, Inc., Allied Imports & Logistics, Inc., and South Coast Horticultural Supply, Inc. (collectively House & Garden), for \$125 million. House & Garden manufactures and distributes plant nutrients under the House & Garden and Mad Farmer brands. These transactions drew on the experience of the firm's corporate, tax, employee benefits and executive compensation, labor and employment, environmental, commercial litigation, intellectual property, and data security attorneys.

Represented Utz Brands, Inc. (NYSE:UTZ), a leading supplier of salty snacks, in its \$480 million acquisition from Insignia Capital Group, a private equity firm, of Truco Enterprises, LP and from OTB Acquisition LLC of the ON THE BORDER® trademarks for the manufacture, sale, and distribution of snack food products in the United States and certain other international markets. Truco is a leading seller of tortilla chips, salsa, and queso under the ON THE BORDER® brand. This transaction drew on the experience of the firm's corporate; employee benefits and executive compensation; tax; labor and employment; intellectual property; labeling; antitrust; and technology, privacy, and data security attorneys.