



Dealing with Supply Chain Disruption for Food and Beverage Companies

Biz + Bites Lunch Series

5/15/2020

- All aspects of high growth brand companies, including:



Who We Serve—Emerging Brands



polkad**o**gbakery



bohāna



LOCO
COFFEE CO.



REAL MADE™

THE
LIVING
APOTHECARY™

nourish the body • feed the soul

BE IN YOUR
element

Who We Serve—Emerging Brands



Who We Serve—Growth Stage Brands



Who We Serve— Mature Brands

Nutter

CEDAR'S 



HÄNS KISSELÉ
WELCOME HOME



Who We Serve—Tech, Ingredient & Restaurant

Nutter



Acquired / Strategic Investment / Mergers

Nutter



Merged with
Ruby's
Naturals

Honest[®]
tea

Acquired by Coca-
Cola



Acquired by Arca



Acquired by
DPSG

HÄNS KISSLE
WELCOME HOME

Acquired by Mitsui & Co., Ltd.



MAKER™



RUNA[®]

Acquired by AMI

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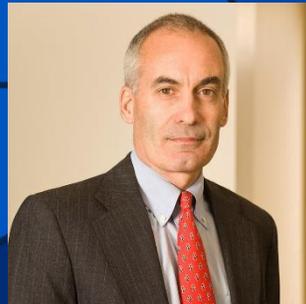
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Jeremy Halpern, Co-Chair, Food and Beverage Group, Nutter

- Represents clients in Food & Beverage, Technology, & Life Sciences
- Director and Past Executive Chairman at The Capital Network
- Advisor, The Bowdoin Group
- Past Director, MassVentures; Past Managing Director, Edible Ventures



Sarah Kelly, Chair, Litigation Department, Nutter

- Represent clients across a variety of industries handling commercial contract disputes, insurance coverage issues, and real estate and construction litigation
- Significant courtroom experience, including jury and bench trials and arbitrations
- Board Member of the Volunteer Lawyers Project



Jeff Grogg, Managing Director, JPG

- Experienced thought leader in guiding food & beverage brands of all sizes
- Board Member of This Saves Lives and King Arthur Flour
- Co-Founder of Cask & Kettle

Dealing with Supply Chain Disruption for Food and Beverage Companies

- Identifying the problems
 - Order Management: Forecasts, Purchase Orders, Confirmations, Invoicing
 - Supply: Raw Materials > Copacker > Logistics > Warehouse > Logistics > Merchandising
- Is it a failure of will or a failure of capacity – Nature of the problem
- Is there a contract
- What does the contract say about performance
 - Remedies, termination or merely “a breach”
- Is there a force majeure clause:
 - Possible types
- How do you assess your “rights”

- First steps
- Asserting and preserving rights; while maintaining a relationship
 - (how not to be a jerk)
- Documentation
- Capturing the facts

- Contract party with the breached obligations bears the pain
- Contract parties share the pain
- Non-Breaching party eats the pain

- Funding the Pain vs. Solving the Problem

- Solutions vs. Safety/Compliance

- Changing shelf life – but staying safe
- Good enough packaging
- Covering by self-producing or with a secondary manufacturer in violation of exclusivity
- Managing payment flows
- Double runs and other ways to improve efficiency for coman
- Using supply chain consultancy – even if short term (on call)
- E-commerce

How does injunctive relief work

If no resolution and there is damage – now what
aka What the hell is litigation

Contingency Planning

- Supply Chain HACCP type analysis
- Redundancy
- Backup suppliers

- Master Plan
- Documentation
- Work Flow Management
- Staffing

- Food Service as a long term problem
- E-commerce as a larger percentage
- Having a long form copack deal