



**Thank you for joining us in New Orleans, Louisiana, for the 43rd Annual
AALA Agricultural Law Educational Symposium!**

Program Key			
Policy Track	Private Practitioner Track	Food Law Track	In-House / Corporate Counsel Track
Ethics			

2022 AALA Annual Agricultural Law Educational Symposium Sessions
<i>Thursday, November 10, 2022</i>
8:00 am: Registration in LaSalon Prefunction
10:00 - 11:30 am: State Agency Attorneys Meeting (invitation only; not a public session) Hosted by the National Association of State Departments of Agriculture <i>Room: Pelican I</i>
1:00 - 4:00 pm: Farm Bureau LINC Meeting (invitation only; not a public session) <i>Room: Pelican II</i>
<i>Thursday sessions will be at the Port of New Orleans (You will be responsible for your own transportation. Directions will be available at registration. There will not be a separate registration at the Port.)</i>
12:30 - 1:30 pm: Session #1: Labor, Transportation and Trade: Managing the Impact of Potential Modifications to Agricultural Transportation Wage Rates Speakers: <i>Brandon Davis, Phelps Dunbar, New Orleans, LA Jim Simon, American Sugar Cane League, Thibodaux, LA</i>
1:30 - 2:30 pm: Session #2: Supply Chain Disruptions: Protect Against Unique Challenges in the Ag Industry Speaker: <i>Daniel Brown, Dorsey & Whitney, Minneapolis, MN</i>
2:30 - 2:45 pm: Networking Break
2:45 - 3:45 pm: Session #3: Secured Lending in Mexico for Agricultural Production: Perils and Pitfalls Speakers: <i>Kip Martin, Coogan & Martin, P.C., Nogales, AZ Daniel Coogan, Coogan & Martin, P.C., Nogales, AZ Miguel Tapia, Tapia & Associates, Hermosillo, Sonora</i>

3:45 - 5:00 pm: Session #4: Tour of Port of New Orleans. Participants should expect to walk for much of the tour, and the Port may allow participants to enter various climate-controlled areas. Participants should dress accordingly.

6:00 – 8:00 pm: Reception
Room: LaSalle BC / LaSalon

Friday, November 11, 2022

7:00 am: Registration in LaSalon Prefunction

7:30 am: New Member and Student Welcome – How to Get the Most From the Symposium

Room: Acadia I&II

All morning sessions will be in LaSalle AB

8:00 – 8:15 am: Introduction and Welcome

Speakers: Jeff Peterson, Lathrop GPM LLP, St. Cloud, MN

Local Speaker

8:15 - 9:15 am: Session #5: General Session TBD

9:15 - 9:45 am: Session #6A: Ag Law Update TBD

Speakers: TBD

9:45 - 10:15 am: Session #6B: Ag Law Update TBD

Speakers: TBD

10:15 - 10:30 am: Networking Break

10:30 – 11:30 am: Session #7: General Session TBD

Speakers: TBD

11:30 am- 1:00 pm: Lunch on Own. New attendees and law school students will have an opportunity to join scheduled lunches off site.

1:00 - 4:00pm Student Quiz Bowl Competition

Room: Tremé

1:00 – 2:00 pm: Session #8: Ethics - Developing Diverse Talent in Agricultural Law and Policy: Be Part of the Solution

Moderator: Angie Krieger, National Pork Board, Clive, IA

As ag lawyers, we find ourselves mentoring or otherwise supervising non-lawyers.....if we are using these non-lawyers in our practices or businesses, what duties do we have with respect to the non-lawyers? Rule 5.3 of the Model Rule of Professional Conduct provides guidance, which includes not only the appropriate amount of instruction needed regarding ethical aspects of the employment but also the level of responsibility for the non-lawyers work product. More broadly, however, the session will discuss the need for more ag lawyers to be willing to engage in these non-lawyer supervisory roles as guided by Rule 5.3., and to challenge ourselves to support the next generation of ag lawyers and policy leaders.

Law students have myriad opportunities for traditional internships and clerkships, but do we provide enough opportunities to learn about key issues in modern agriculture (especially animal agriculture)? NALC does a great job providing information to students who know they are interested in ag, but what about those who don't know where to look? Or those who look for information and only see one side of the issues (i.e. <https://thebrooksinstitute.org/> or https://law.lclark.edu/centers/animal_law_studies/)?

We need to challenge ourselves to start thinking outside the box about how we support development of the next generation of ag law and ag policy leaders. This starts with broadening our search beyond traditional sources of ag law students and then giving those we find a great experience, all while keeping in mind the MRPC.

Track: Ethics

Room: LaSalle AB

Session 8

2:05 – 3:05 pm: Session #9: Concurrent Breakouts

Sackett v EPA - Future of Clean Water Act

Speakers: Charles Yates, Pacific Legal Foundation, Sacramento, CA
Tim Bishop, Mayer Brown, Chicago, IL
Jonathan Adler, Case Western Reserve University School of Law, Cleveland, OH

This session, headlined by the *Sackett* litigation team, will address possible outcomes in *Sackett v EPA* (drawing on oral argument and court briefings) and include a robust discussion on the impact of the case as it relates to the future of the Clean Water Act. Additionally, the panel of litigators and legal scholars will use *Sackett* as a vehicle to examine the 50-year legacy of the Clean Water Act – with particular emphasis on the act’s impact on American agriculture.

Track: Policy

Room: LaSalle C

Session 9A

Representing Farmers in USDA's National Appeals Division (NAD)

Speakers: Robert Slaughter, Slaughter & Lupton Law, PLLC, Edenton, NC
Frank “Max” Woods, Director, National Appeals Division, Alexandria, VA
Kyla Kaplan, Olsson Frank Weeda Terman Matz PC, Washington, DC

This session will discuss representing farmers who appeal adverse USDA decisions to NAD. The session will provide important background information on how a farmer could end up appealing adverse USDA decisions to NAD; address key statutes, regulations, NAD decisions, and federal court decisions; and give practice pointers.

Track: Private Practitioner

Room: Pelican I&II

Session 9B

PFAS - A Huge Liability Come Home to Roost

Speakers: Joe Lyon, The Lyon Firm, Cincinnati, OH
Thomas Redick, Global Environmental Ethics Counsel LLC, Spring Lake, MI
David Jefferson Dye, New Orleans, LA

This session will describe the unfortunate history of PFAS (a catch-all for many fluoridated compounds used for waterproofing-etc.), which are increasingly being found in the environment, posing a serious challenge for many farmers. In the near future, entire dairy herds could be sent to Superfund sites in many states, as the first dairies in New Mexico, Michigan and New Hampshire to be afflicted with PFAS contamination point toward the future. Because plants, particularly corn, are known to take up PFAS from soil, recalls of food loom ahead. Regulators are trying to set safe levels for compounds that have never been subject to adequate testing. While known to be toxic since the 1980s, they not yet listed as hazardous under Superfund (Congress may finally fix this omission). Major agricultural groups have been meeting with the EPA and FDA and hoping to resolve how best to handle this impending crisis.

Track: Food

Room: Poydras

Session 9C

100th Anniversary Capper Volstead Act: Recent Developments

Speakers: Jack Huerter, Dorsey & Whitney, Minneapolis, MN
TBD

The current environment of heightened antitrust scrutiny of the agriculture industry brings added emphasis to the need for the Capper-Volstead Act limited antitrust exemption. This exemption enables members of agricultural cooperatives to collaborate and set prices for the products marketed through the cooperative without running afoul of the Sherman Act. Courts have strictly construed the statute’s elements, however, yielding harsh results for cooperatives failing to qualify for the exemption. This session will present the Capper Volstead Act, its elements, the case law interpreting those elements, and recent cases that cooperatives should be aware in assessing their antitrust exposure.

Track: In-House

Room: Acadian I&II

Session 9D

3:05 - 3:15pm: Networking Break

3:15 – 4:15 pm: Session #10: Concurrent Breakouts

Solutions for Heirs Property Owners

Speaker: Jesse Richardson, West Virginia University of Law, Morgantown, WV
Amber Miller, Crenshaw, Dupree & Milam, L.L.P., Lubbock, TX
Laura Vaught, Kious Rodgers Barger Holder & King, PLLC, Murfreesboro, TN

Heirs property is a growing problem across the United States. The 2018 Farm Bill allows farm operators to obtain an FSA farm number, but the rules don't apply to every heirs property situation, and the clouded title issues still remain. In addition, heirs property owners still lack access to credit and other federal and state programs and services. This session will briefly review the causes and effects of heirs property, then focus on how private practitioners or public interest attorneys can best address and minimize the negative impacts of heirs property. Policy solutions will be discussed.

Track: Policy

Room: LaSalle C

Session 10A

Lions, Tigers, Cows... Oh My! - Emerging Issues in Animal Law

Speakers: Jake Parker, North Carolina Farm Bureau, Raleigh, NC
Caroline Lodbell, Western Resources Legal Center, Portland, OR
Mike Dye, Law Office of Michael B. Dye, Salem, OR

This session will discuss the latest developments in Animal Law and the implications those developments may have on animal agriculture. The session will discuss various subject matter areas, including animal welfare, animal rights, and animal personhood, and explore the intriguing intersection between criminal and animal law. This session is intended to complement the later Session 11C.

Track: Private Practitioner

Room: Pelican I&II

Session 10B

Rural - Urban Reintegration and Food Resiliency

Speakers: Jessica Guarino, University of Illinois, Urbana-Champaign, Urbana, IL
Malory Ma Roddy, ArentFox Schiff LLP, Chicago, IL
Jonathan Coppess, University of Illinois, Urbana-Champaign, Urbana, IL

Social and environmental challenges require the U.S. food system to redevelop production and distribution channels to achieve greater resiliency and alignment with evolving consumer perspectives. One means is re-integration of local and regional producers into the food supply. This session will explore the legal, economic, and equity issues involved in rerouting food system networks to both draw food production to the urban environment and to pull the urban population to the locus of food production. The goal is to provide practitioners and policy professionals tools to facilitate food system re-integration with a focus on the urban edge.

Track: Food

Room: Poydras

Session 10C

Perspectives on the Future of PACA: Recent Cases and Opportunities for Modernization

Speakers: Karen Carr, ArentFox Schiff LLP, Washington, DC
Ben Kahrl, Produce Pay Inc., Los Angeles, CA
David Durkin, Olsson Frank Weeda Terman Matz PC, Washington, DC
Bruce Summers, US Department of Agriculture, Washington, DC

The Perishable Agricultural Commodities Act (PACA) was enacted during the Great Depression to promote fair trade in the fresh fruit and vegetable industry and has slowly evolved through court decisions and legislative and regulatory updates. This session will discuss developments in the recent case law and provide insights from USDA and private practitioners representing produce industry and AgTech perspectives. This session will also discuss regulatory proposals to modernize PACA to account for emerging technologies.

Track: In-House

Room: Acadian I&II

Session 10D

4:15 - 4:30 pm: Networking Break

4:30 – 5:30 pm: Session # 11: Concurrent Breakouts

Restrictions, Reportings and Rules: The Regulatory Landscape Applicable to “Foreign” and Corporate Owners and Lessees of U.S. Agricultural Land

*Speaker: Kari Larson, K&L Gates LLP, Seattle, WA
Marisa Bocci, K&L Gates LLP, Seattle, WA*

This session will be an overview of the regulatory landscape applicable to foreign owners and lessees of U.S. agricultural land including a discussion of (i) the Agricultural Foreign Investment Disclosure Act of 1978 (AFIDA) and similar state statutory equivalents, (ii) anti-corporate farming rules; and (iii) recent legislation with respect to each of the foregoing.

Track: Policy

Room: LaSalle C

Session 11A

The Digitalization of Grain Contracts and Trading

*Speakers: Todd Janzen, Janzen Schroeder Agricultural Law LLC, Indianapolis, IN
J. Michael Bowman, Zen Noh Grain Corporation, Covington, LA
Brittany Batz, Barge Digital Project for NGFA, St. Louis, MO*

This session will cover the efforts made to transform grain trading from using paper contracts to moving to online digital platforms. The discussion will start at the farm level and explain how farmers are embracing new platforms that allow grain contracting online. The next portion will discuss the Barge Digital project that is moving barge trading to NGFA’s online platform. Finally, the panel will discuss international shipping of grain and how it is revolutionized by digital grain trading.

Track: Private Practitioner

Room: Pelican I&II

Session 11B

Prop 12, Question 3, and Beyond: Recent State Legislation Targeting Animal Raising Practices

*Speakers: John Dillard, OFW Law, Washington, DC
Brianna Schroeder, Janzen Schroeder Agricultural Law LLC, Indianapolis, IN
Chelsea Good, Livestock Marketing Association, Overland Park, KS*

In 2018, California’s voters approved Proposition 12, a ballot initiative mandating minimum animal raising standards for animals that produce pork, veal, and eggs for the California market, regardless of where the animals are raised. Massachusetts voters approved a similar ballot initiative, Question 3, in 2016. In addition, several state bills that would significantly restrict common animal raising practices are under consideration. This session will provide an update on the implementation of Prop 12 and Question 3, review recent court challenges to the legislation and the precarious state of the Dormant Commerce Clause doctrine, and review similar legislative proposals under consideration. This session is intended to complement the earlier Session 10B.

Track: Food

Room: Poydras

Session 11C

Grow North: Understanding the Landscape to Help Your Clients Build Their Agribusinesses in Canada

*Speaker: Julia Schatz, Bennett Jones LLP, Toronto, ON
Kenton Rein, Bennett Jones LLP, Calgary, AB*

This session will provide an overview of considerations for agribusiness and food companies doing business in Canada, including the regulatory schemes that govern those businesses. It will be a primer to understanding the key requirements for conducting business and will include an overview of the regulatory obligations under the Safe Food for Canadians Act, the Food and Drugs Act, the Pest Control Products Act, and the Feeds Act, amongst others.

Track: In-House

Room: Acadian I&II

Session 11D

6:30 - 8:30 pm: Reception - Location TBD

Saturday, November 12, 2022

7:15 am: Registration in LaSalon Prefunction

7:15 am: Breakfast in LaSalon Prefunction

Sessions 12 & 13 will be in LaSalle AB

7:45 – 8:15 am: Session 12A: Ag Law Update TBD

Speaker: TBD

8:15 - 8:45 am: Session 12B: Ag Law Update TBD

Speaker: TBD

8:45 - 9:15 am: Session 12C: Ag Law Update TBD

Speaker: TBD

9:15 - 9:45 am: Session 12D: Ag Law Update TBD

Speaker: TBD

9:45 - 10:00 am: Networking Break

10:00 - 10:30 am: Session 13: Panel TBD

Speaker: TBD

10:30 - 11:00 am: AALA Business Meeting and President's Address

11:00 am – 12:00 pm: Session #14: Concurrent Breakouts

Right to Farm: The North Carolina Experience Updated

Speakers: Jake Parker, North Carolina Farm Bureau, Raleigh, NC

Tiffany Lashmet, Texas A&M Department of Agricultural Economics, Amarillo, TX

Nate Huff, Phelps Dunbar, Raleigh, NC

This session will provide an update on North Carolina's farm nuisance litigation/right-to-farm saga with an emphasis on state court litigation challenging recent amendments to the State's right-to-farm statute under the North Carolina Constitution. Huff and Parker, who represent separate but cooperating defendants in the litigation, will discuss the litigation and its path through the trial court and appellate levels. Lashmet will review how other state legislatures are responding to North Carolina's experience and forecast possible developments in nuisance law and right-to-farm defenses in general.

Track: Policy

Room: LaSalle C

Session 14A

Hunting Leases and Landowner Liability: Providing Protection and Opportunity for Clients

Speakers: Nathaniel Gilbert, The Law Office of Nathaniel Gilbert, LLC, San Antonio, TX

TBD

Drafting hunting leases to provide interest protection and land stewardship for landowners and recreational opportunity for outfitters and hunters. By using creative drafting solutions and hunting industry specific language, attorneys can help farmers and ranchers avoid the issues common to leasing their property for hunting. Understanding the intersection of custom-tailored liability waivers and statutory protection in protecting the interests of farmers and ranchers who lease their property for hunting. Legislation limiting personal liability of landowners only goes so far, and lawyers helping to shield their clients from liability must understand liability waiver requirements and common law approaches.

Track: Private Practitioner

Room: Pelican I&II

Session 14B

The Local: Partnerships With Artisanal Alcohol Producers and Sellers and Their Agricultural Suppliers

Speakers: John Szymankiewicz, Beer Law Center, Raleigh, NC

TBD

Agriculture Law attorneys have seen a seismic shift in the value proposition of niche commodity crops. As artisanal, “local”, and heritage/heirloom products command a premium and alcohol producers and sellers look to capitalize on the impact of the business on the local level, understanding the needs of the different groups is critical to capitalizing on market opportunities. This session will dive into the needs of alcohol producers and sellers and how agricultural suppliers can create a value position just by being themselves. We'll also touch on critical legal aspects of the quasi-partnerships that develop and how/when craft and art can become argument and litigation.

Track: Food

Room: Poydras

Session 14C

Roundup & Beyond: Update on Current Pesticide Regulation and Litigation / Dicamba Off-Target Movement - the MDL, Bader, and the \$400 million Settlement / Pesticide Drift Liability Issues

Speakers: Brigit Rollins, National Agricultural Law Center, Fayetteville, AR

Don Downing, Gray Ritter Graham, St. Louis, MO

Tracey George, Davis George Mook LLC, Kansas City, MO

David Leath, Petrie, Leath, Larrivee and O'Rourke, LLP, Fresno, CA

This session will provide an overview of recent events in the world of pesticide regulation and litigation. The current status of chlorpyrifos, dicamba, and glyphosate all will be discussed, including the status of on-going litigation and any changes or proposed changes to regulation. The legal issues surrounding this topic will be discussed so that attendees can walk away with understanding where we're at and how we got here.

Track: In-House

Room: Acadian I&II

Session 14D

12:00 - 1:30pm: Awards Luncheon and Quiz Bowl Winners

Room: LaSalle AB

1:30 – 2:30 pm: Session #15: Concurrent Breakouts

Preservation and Utilizing Groundwater Resources: Practical Guide & Overview of Various State Regulations & Programs to Preserve Water Rights for Future Long-Term Use

Speakers: Gage Hart Zobell, Dorsey & Whitney, Salt Lake City, UT

TBD

This session will provide an overview of current groundwater resources in agriculturally rich areas (i.e., Central Valley, Ogallala Aquifer, Mid-West, Montana, Arizona) and the state regulatory regimes controlling groundwater usage (i.e., right of capture, prior appropriation, modified riparian permit, etc.). This session will then focus on current, and proposed, statewide regulations and initiatives that allowed agricultural users greater flexibility with groundwater resources while promoting efficiency and reduction in groundwater usage. Among these programs are the recharge systems in Nevada and Arizona, in-stream flow leasing in Montana, water management areas in Kansas, and others.

Track: Policy

Room: LaSalle C

Session 15A

Title Issues in Ag Real Estate: Beyond the Basics

Speaker: Jen Modjeska, First American Title Insurance Company, Salt Lake City, UT
Jonathan Buss, First American Title Insurance Company, Salt Lake City, UT
Kellen Holgate, K&L Gates LLP, Seattle, WA

This session will start with an overview of title insurance coverages, including recent changes to the ALTA form policy jackets, then explore more advanced ag title topics through the different perspectives of (i) the attorney representing the buyer, seller, or lender, and (ii) the title insurer. The presenters (consisting of an agribusiness attorney and underwriting counsel for a title insurer) will delve into more advanced topics that arise in agribusiness real estate transactions, including: (a) insuring appurtenant easements; (b) railroad access issues; (c) oil, gas, and mineral leases and reservations; and (d) leasehold title insurance.

Track: Private Practitioner

Room: Pelican I&II

Session 15B

FDA Panel

Speaker: TBD

Track: Food

Room: Poydras

Session 15C

Working With State Agency Attorneys

Speakers: Teena Gunter, Oklahoma Dept. of Agriculture, Food and Forestry, Oklahoma City, OK
Carole Briggs, Connecticut Department of Agriculture, Hartford, CT
Cort Jensen, Montana Department of Agriculture, Helena, MT

Attorneys within state departments of agriculture fill varied roles based on statutes, state constitutions, and history. Three states, representing different structures, will discuss their roles as attorneys in state governments, both internally and externally, including coordination with other state agencies, local and federal governments, and private practice attorneys working with the food and agriculture industry.

Track: In-House

Room: Acadian I&II

Session 15D

2:30 - 2:45 pm: Networking Break

2:45 – 3:45 pm: Session #16: Concurrent Breakouts

State Trends in Agricultural Labor Legislation

Speakers: Austin Vincent, Colorado Farm Bureau, Centennial, CO
TBD

Throughout the country, more State legislatures are discussing and passing bills concerning agricultural labor laws. While California has had ag labor laws and regulations in place for decades, now states like Colorado, New York, Oregon, and Washington state are expanding their own agriculture labor laws and regulations. This session will discuss the trending laws and regulations that are being discussed and enacted across the nation, which includes overtime, unionization, hand-weeding regulations, heat illness regulations, access to employees, and others. It is a primer for ag policy and agricultural attorneys who will need this information for clients who have employees and what they need to do to comply with these laws.

Track: Policy

Room: LaSalleC

Session 16A

Economic and Legal Considerations With Carbon Markets

Speakers: Paul Goeringer, University of Maryland, College Park, MD
Tiffany Lashmet, Texas A&M Department of Agricultural Economics, Amarillo, TX
Shannon Ferrell, Oklahoma State University, Stillwater, OK

Agricultural operators across the country are being presented with new opportunities related to carbon sequestration. Because these markets are new and developing, there are several economic and legal considerations that producers need to consider. This session will discuss the various legal questions and economic considerations that Extension faculty have been receiving and addressing. Topics to be discussed will be an overview of carbon markets, economic considerations when adopting carbon sequestration practices on-farm or rangeland, legal considerations of which agricultural operators need to be aware, and key challenges for market development.

Track: *Private Practitioner*

Room: *Pelican I&II*

Session 16B

Building Local Food Sovereignty

Speakers: April Jones, Pinehurst Community Action/Pinehurst Farmer Market, Columbia, SC
TBD

How can we enhance current efforts toward community-wide access to healthy, local food year-round? Pinehurst Community Action is part of a worldwide movement building resiliency from the ground up. In this session, there will be a dialog exploring how we can better prepare ourselves for future instabilities, such as labor and produce shortages, and transportation issues.

Track: *Food Law*

Room: *Poydras*

Session 16C

Surviving & Thriving Under ESG: Regulatory Update and Best Practices Related to the Sustainability Measures Related to the "Environmental" Aspects of ESG / Promote Brand Enhancement & Avoid Brandwashing: Best Practices for Sustainability Claims

Speakers: Gage Hart Zobell, Dorsey & Whitney LLP, Salt Lake City, UT
Megan Houdeshel, Dorsey & Whitney LLP, Salt Lake City, UT
Steven Poplawski, Bryan Cave Leighton Paisner LLP, St. Louis, MO
Nora Faris, Bryan Cave Leighton Paisner LLP, St. Louis, MO

This session will introduce the background and prior regulatory framework upon which Environmental Social Governance (ESG) is based and projection on its longevity and future trends. The session will also review recent SEC rulemaking and implementation of voluntary disclosures and how a demand market is driving implementation of sustainability, as well as discuss market opportunities to collateralize utilizing: (i) carbon farming contracts; (ii) carbon sequestration; and (iii) water conservation measures.

Track: *In-House*

Room: *Acadian I&II*

Session 16D

3:45 - 4:45 pm: Board Listening Session

Room: *LaSalle AB*

AALA will submit sessions deemed eligible for continuing legal education (CLE) credits to symposium registrants' states.

*CLE credits are granted based on individual attendance records and state CLE rules. **Note that approvals will vary** because each state has different CLE requirements and rules. For example, not every state calculates CLE credits based on the clock hour. Not every state will grant CLE credits for each session submitted by AALA. In all events, AALA is committed to providing top-quality, relevant CLE that will be approved for most states.*

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We look forward to seeing you next year in
Charlotte, North Carolina,
November 9–11, 2023!

