

Thursday, October 26, 2017 – Muhammad Ali Center

1:00 pm – 4:30 pm – Ali Center CLE

1:00 pm-1:45 pm: Risk Management for Agri-Tourism/Hunting

Speakers: Jenna Keller; Keller Law LLC (Colorado)

Tim Andersen, Gordon Insurance Agency (Colorado)

Attorney Jenna H. Keller and Insurance Agent Tim Andersen will present on legal and insurance issues specific to agri-tourism such as: statutory protections; well-drafted releases; risk assessment and risk management practices; insurance protections; and legal protections afforded by business structure.

1:45 pm-2:30 pm: The Drones Are Here-What Every Lawyer Needs to Know About Drone Law

Speaker: Kelly Swartz; Director, Unmanned Systems Department, Wideman Malek (Florida)

This fast paced course will teach you all you need to know to advise your clients about drone operations. Whether your clients already use drone services or are just exploring how drones can reduce expenses while limiting liability, this event is for you. Find out how drones are being used in the agriculture industry. Consider the ethical obligations when advising clients about potentially unenforceable laws. You will leave knowing more about the law as well as what policies all companies need to adopt to minimizing corporate liability related to drone activity.

2:45 pm – 3:30 pm: Equine Law 101

Speaker: Holly Banta; Ice Miller (Indiana)

Equine law is the practice of law related to all aspects of horse ownership, horse-related activities and industries, horse businesses, horse organizations, and horse facilities. This presentation will provide an overview of this diverse area of law, including equine activity liability statutes, agricultural entertainment activity liability, contract drafting, and hot topics in the field.

3:30 pm – 4:30 pm: Implicit Bias (ethics credit requested)

Speaker: Jerry Foxhoven; Iowa Department of Human Services (Iowa)

Implicit Bias: This ethics presentation focuses on how the practice of law is affected by bias and how attorneys can better identify and eliminate from the legal profession and from the practice of law biases based on race, ethnicity, economic status and other factors that impact how we interact with people that are different from us. Unfortunately, we also tend to believe that we do not have biases and that we treat everyone the same. Professor Jerry Foxhoven has presented on implicit bias and disproportionality issues across the country, including in Oregon, Louisiana, Kentucky, California, Maryland, and New Jersey. He will help us understand where these biases come from and how to accept their existence in order to change our mindset to be more inclusive and nonjudgmental in the practice of law.

New Member/New Attendee Welcome

4:45 pm – 5:00 pm: Welcome for New AALA Members and First time AALA Symposium Attendees

Sponsor: AALA Membership Committee

Join the Membership Committee for a welcome meeting providing an overview of the conference and suggestions as to how to make the most out of the networking and educational opportunities.

AALA Welcome Reception/Museum Tour

4:30 pm – 6:30 pm: Welcome Reception – Muhammad Ali Center

Sponsor: Drake Agricultural Law Center/Drake University Law School

All AALA attendees are welcome to attend the opening reception of the 2017 Symposium. Held at the Muhammad Ali Center, just a few blocks from the conference hotel, enjoy light appetizers and drinks in the beautiful facility. Symposium attendees also have complimentary access to the Muhammad Ali Museum until 6 pm. You are welcome to tour the museum prior to the reception, you will just need to check in with AALA staff by the auditorium. *Guest tickets are available for purchase for Museum Tour and Reception.*

Friday, October 27, 2017 – Seelbach Hilton

8:15 am – 8:30 am Session #1: Welcome/Overview Issues in KY Agriculture

Speaker: *Ryan Quarles; Kentucky Commissioner of Agriculture*

Commissioner Quarles will discuss unique legal and policy challenges in Kentucky, which is best known for its horses and bourbon, but is also home to numerous other food and agricultural industries.

8:30 am – 9:30 am Session #2: Ag Law Updates

Update #1 – Land Use and Resource Law

Speaker: *Jesse Richardson; West Virginia University College of Law (West Virginia)*

An overview of the major changes in law and updates on litigation related to property law, including restrictions on ownership and transfer, easements, water law, oil and gas, and planning and zoning.

Update #2 – Food Law

Speaker: *Susan Schneider; University of Arkansas School of Law (Arkansas)*

The food law update will provide a brief overview of the main changes in law and updates on litigation. In addition, this session will explore new trends in food issues to identify areas that may become important to ag law practitioners.

Update #3 – Farm Bill

Speaker: *David Grahn, U.S. Department of Agriculture (Washington, D.C.)*

The farm bill session will explore issues in administering the current farm bill and identify pending challenges in the development of the next farm bill.

9:40 am – 10:15 am Session #3: Featured Speaker

A View from the Inside: Agricultural Priorities of the New Administration

Speaker: *Ray Starling, Special Assistant to the President, National Economic Council (Washington, D.C.)*

Ray Starling, a long-time AALA member and former member of the Board of Directors, will provide members with first-hand knowledge of the Administration's goals and priorities in agriculture. From his experience on the state level, in the Senate, and his current role as a key advisor to the President on food, agriculture and trade issues, he will provide an insider's perspective of the new Administration's food and ag policy priorities and what that may mean for those involved in these industries.

10:45 am – 11:45 am Session #4: Concurrent Breakouts

Industrial Hemp Pilot Programs: A Review

Moderator: *Harrison Pittman; National Agricultural Law Center (Arkansas)*

Speakers: *Ted Feitshans; North Carolina State University, Emeritus (North Carolina)*

Doris Hamilton; Kentucky Department of Agriculture (Kentucky)

Joseph A. Bilby; Kentucky Department of Agriculture (Kentucky)

Clint Quarles; Kentucky Department of Agriculture (Kentucky)

Section 7606 of the 2014 Farm Bill authorized State industrial hemp pilot programs. Hemp produced under such programs is excluded from the definition of a controlled substance. The authors of this provision envisioned that these programs would set the stage for full-scale legalization in the next farm bill. This presentation reviews State laws and regulations that implemented programs with discussion of how the success or lack of success of these programs may influence future farm bill provisions.

Track: *Policy*

Environmental Due Diligence for Existing or Proposed Livestock Operations**Speakers:** *Dan McInerney; Bose McKinney & Evans (Indiana)**Dr. Mike Veenhuizen; Livestock Engineering Solutions, Inc. (Indiana)*

Presented by veteran professionals, this presentation will cover: 1) Requirements under the federal All Appropriate Inquiries (AAI) regulation and 2) environmental/regulatory due diligence issues associated with the purchase of an existing or proposed livestock operation. Compliance with AAI is necessary for liability protection, and is required by lenders. Understanding the regulatory status of an existing operation, and foreseeing siting and environmental issues associated with a planned operation, are essential for a successful purchase.

Track: *In-House/Corporate Counsel***Arbitrating Agricultural Disputes****Speaker:** *David Barrett; Barrett, Easterday, Cunningham & Eselgroth LLP (Ohio)**William Gillon; The Cotton Board (Tennessee)*

This presentation will include a review of some of the main arbitration systems and arbitration requirements used by those in the agricultural industry to resolve disputes: crop insurance arbitration, National Grain and Feed Association (NGFA) Arbitration System, Grain and Feed Trade Association (Gafta) for international transactions, American Arbitration Association, National Futures Association and other commodity specific arbitration systems. The program will also address the interplay between industry trade rules and enforcement of pre-dispute arbitration contractual provisions and requirements.

Track: *Private Practice***Exploring Franchise To Grow Your Business****Speakers:** *John Moore; Husch Blackwell LLP (Missouri)**Mark Siebert; The iFranchise Group (Illinois)*

This presentation covers the nuts and bolts of franchising a business from how it works, what it means, advantages/disadvantages, whether it is franchisable, alternative structures and key legal issues that arise.

Track: *Food Law***1:45 pm – 3:00 pm****Session #5: Concurrent Breakouts****Genetic Editing in Ag Biotech – Barriers to Entry and Golden Opportunities****Speakers:** *Thomas P. Redick; Global Environmental Ethics Counsel, LLC (Missouri)**Blaine Early; Stites & Harbison (Kentucky)**David C. Berry; Brooks Kushman (Michigan)*

This session will discuss regulation and litigation over biotech crops (e.g., In Re: Syngenta Ag MIR162 Corn Litigation) that raise novel issues of nuisance and negligence. Liability risks arise from evolving regulatory issues, including trade barriers, after new rules are written by the parties to the Cartagena Protocol on Biosafety for new plant breeding methods that edit DNA. New USDA rules for such methods will be discussed and regulatory approaches in key markets overseas. A mix of perspectives will address both barriers to entry and the wondrous opportunities these methods provide to feed billions of people.

Track: *Policy***The Perishable Agricultural Commodities Act: Preservation and Enforcing the Statutory Trust****Speaker:** *Joel L. McKie; Hall Booth Smith, PC (Georgia)*

The Perishable Agricultural Commodities Act (PACA) creates a statutory trust that grants produce suppliers trust rights superior to other creditors, including secured creditors. This program focuses on 1) the scope of the trust and its enforcement and 2) the steps required by the supplier to preserve its trust rights. Special attention will be paid to case law interpreting the 2011 amendments regarding the impact of post-default payment arrangements and the impact of that rule change on pre-default course of conduct being the basis for extending payment terms beyond the maximum 30 days allowed under the PACA related regulations.

Track: *In-House/Corporate Counsel*

Strategic Planning with Closely Held Businesses

Moderator: Paul Wright; Wright & Moore (Ohio)

Speakers: Chris Pfannenstiel; KCoe Isom LLP (Kansas)

Scott Miller; KCoe Isom LLP (Colorado)

Jeffrey Fetter; Scolaro, Fetter, Grizanti, McGough & King, P.C. (New York)

Dan Fetter; Scolaro, Fetter, Grizanti, McGough & King, P.C. (New York)

The panel will focus on legal issues and business considerations regarding selection of business entities, business entity valuation, discounts, and buy/sell agreements. Attention will be given to lifetime planning and tax planning. A case farm example will be used for a reference. This seminar will provide a robust discussion of issues farm and ranch business owners and their advisors should consider.

Track: Private Practice

Just Label It, Correctly: Advising Clients on Emerging Food Labeling Issues

Moderator: Marne Coit; North Carolina State University (North Carolina)

Speakers: John Dillard; OFW Law (Washington, D.C.)

Kim Bousquet; Thompson Coburn LLP (Missouri)

Consumers have demonstrated a willingness to pay premiums for products with attributes that make them feel better about the foods they consume. The demand for products carrying labels touting them as organic, non-GMO, "healthy," "natural," or "humanely raised" has increased substantially. Meanwhile, the regulatory environment for labeling product attributes is continually shifting in real time. USDA is preparing its GMO (bioengineered) labeling proposal while FDA is re-evaluating what it means for a product to be "healthy" and "natural." Providing up-to-date advice to clients that sell food to the public is critical.

Track: Food

3:15 pm – 4:30 pm

Session #6: Concurrent Breakouts

The Future of Water Quality and Agriculture: State and Federal Innovations in Conservation Policy

Speakers: Neil Hamilton; Drake Agricultural Law Center (Iowa)

Craig Cox; Environmental Working Group (Washington D.C./Iowa)

Ellen Essman; Ohio State University (Ohio)

Daryn McBeth; Gray Plant Mooty (Minnesota)

The panel will dive into the increasingly contentious issue of the impact of agriculture on water quality. It will examine the operation of current federal soil conservation programs with a focus on how those programs, many established in the 1985 Conservation Title, may be inadequate to deal with the new resource challenges facing the nation, in particular water quality. Speakers will address the opportunities to reform federal conservation policy to support a more resilient agricultural system. The panel will also feature speakers from two states that are taking the lead in using state law to implement innovative programs to assist farmers and landowners in improving water quality and addressing sources of farm-based pollution. We will consider how the Ohio experience with nutrient management education and the Minnesota experience with mandatory stream-side buffers may serve as models for consideration by other states.

Track: Policy

Plant Variety Protection Strategies and Litigation

Speakers: Caitlin Andersen; McKee, Voorhees, and Sease PLC (Iowa)

R. Scott Johnson; McKee, Voorhees, and Sease PLC (Iowa)

Brad Roth; NUtech Ventures (Nebraska)

This session focuses on the protections afforded to breeders under various IP structures, including the Plant Variety Protection Act, as well as litigation of those rights. A complete look at the litigation cycle from cease and desist letters to settlement will be presented and include samples of PVP certificates, cease and desist letters, and settlement agreements to help practitioners protect the rights of breeders and farmers.

Track: In-House/Corporate Counsel

What Every Ag Lawyer Should Know about Cooperatives

Moderator: Mike Traxinger; South Dakota Wheat Growers Association (South Dakota)

Speakers: Todd Eskelsen; Schiff Hardin LLP (Washington, D.C.)
Christopher E. Ondeck; Proskauer Rose LLP (Washington, D.C.)
George W. Benson; McDermott Will and Emery (Illinois)

This session will provide a solid grounding in key legal issues that every agricultural attorney should know or be aware of when they either work with or represent a cooperative or members of a cooperative. The speakers will present on: 1) the “Top Ten” cooperative legal concepts every attorney should know; 2) new legal compliance requirements that can cost a cooperative its immunity from the antitrust laws; and 3) the tax benefits of being a cooperative or a member of one.

Track: Private Practice

Cannabis: Opportunities and Challenges for Food & Agribusiness in the US & Canada – A Legal Perspective

Speaker: Melanie Rowand; Torys LLP (Toronto, Canada)
Eric Berlin; Jones Day (Illinois)

In both the U.S. and Canada, the topic of cannabis is hotly debated and regulations are evolving. After providing an overview of the current laws in both countries, the presenters will discuss the potential players and opportunities in the food and agribusiness sector. Discussion will also include emerging legal issues, including structuring of transactions, intellectual property, and regulatory compliance.

Track: Food & Policy

4:35 pm – 5:35 pm Session #7: Plenary Panel – Farm Bill/Ag Policy – What’s Next

Moderator: Mike Traxinger; South Dakota Wheat Growers Association (South Dakota)

Speakers: Mary Kay Thatcher; American Farm Bureau Federation (Washington, D.C.) (confirmed)
Rob Larew; National Farmers Union (Washington, D.C.) (confirmed)

A moderated discussion regarding key pieces of food and agricultural legislation and policy under consideration at the national level, particularly the 2018 Farm Bill.

Saturday, October 28, 2017 – Seelbach Hilton

7:30 am – 8:30 am Session #8: Ag Law Updates

Update #4 – Tax Law Update

Speaker: Kristine Tidgren; Iowa State University, Center for Agricultural Law & Taxation (Iowa)
A brief overview of recent and pending tax law changes most applicable to agriculture.

Update #5 – Ag Finance Update

Speaker: Jeffrey Peterson; Gray Plant Mooty (Minnesota)
This session will be a discussion of recent agricultural finance cases under Revised Article 9 (secured transactions), Article 2 (sale of goods), state fraudulent transfer, exemption and insolvency statutes and bankruptcy. The presentation will highlight trends in agricultural finance law.

Update #6 – Environmental Law

Speaker: Anthony Schutz; University of Nebraska College of Law (Nebraska)

The environmental law update will provide a brief overview of the main changes in law and updates on litigation in the area of environmental law that will have an impact on agriculture.

8:30 am – 9:30 am Session #9: Ethics (Plenary)

Ethical & Liability Issues for Corporate Officers and Other Leaders (ethics credit requested)

Speaker: *Ted Kang; Alston & Bird (Washington, D.C.)
Nowell Berreth; Alston & Bird (Georgia)*

In recent years, there have been several cases where corporate officers have been held liable, under strict liability standards, for the actions of employees within their company. This has resulted in fines and even jail time. This ethics session will focus on how this strict liability theory is being applied to corporate management and what your responsibilities are as legal advisors and/or corporate officers. We will also provide tips on how to ethically and properly respond to compliance failures as a legal advisor and how to evaluate or create an ethical and effective corporate compliance program.

Track: *Ethics*

9:30 am – 10:15 am Session #10: Featured Speaker (Plenary)

Federal Initiatives to Benefit Agriculture and Rural Prosperity

Speaker: *Rebeckah Adcock, Special Advisor to the Secretary, United States Department of Agriculture (confirmed)*

This session will present highlights of a recent report to the President from the federal interagency Task Force on Agriculture and Rural Prosperity, which reviews federal authorities, programs, regulations and administrative process. The work of the Task Force will influence changes in delivery of services and programs as well as future legislative and regulatory reform efforts at the USDA and other agencies.

10:30 am – 11:45 am Session #11: Concurrent Breakouts

Nutrient Loss and Farm Policy: Perspectives for the Farm Bill

Sponsor: *Bock Agricultural Law & Policy program at the University of Illinois*

Moderator: *Lee Miller; Harvard Food Law & Policy Clinic (Massachusetts)*

Speakers: *Laurie Ristino; Center for Agriculture and Food Systems, Vermont Law School (Vermont)
Jonathan Coppess; University of Illinois (Illinois)
Chris Adamo; National Wildlife Federation (Washington, D.C.)*

Nutrient loss from farming practices has come home with statewide reduction strategies and the Des Moines Water Works lawsuit. The farm bill invests roughly \$5 billion each fiscal year in agricultural conservation efforts. With the next farm bill reauthorization process underway, there are many questions at this intersection of Federal farm and conservation policy and the growing challenges from nutrient loss. This panel of experts in agricultural law and policy will provide valuable perspectives on this intersection of timely, relevant topics.

Track: *Policy*

Cross-Border Transactions: Corporate & Foreign Farm & Investment Regulations

Speakers: *Marisa Bocci; K&L Gates (Washington)*

Julia Loney; McMillan LLP (Calgary, Alberta)

Richard Jones; McMillan LLP (Calgary, Alberta)

This presentation will focus on the growing trend of North American cross-border transactions in the agricultural sector. With increased global demand for food production arising from population growth, transition from carbohydrate-based diets to protein-based diets, limited agricultural land and water supply, and opportunities for lucrative investments, deal flow in this sector is expected to increase. We will focus on regulatory requirements that interested parties should be aware of prior to and in anticipation of cross-border transactions. Examples of regulatory requirements include foreign land ownership, health, transport, labeling, food security/safety, & environmental concerns.

Track: *In-House/Corporate Counsel*

From Corral to Court: Employment Law Developments Affecting Agriculture

Speakers: *Mark A. Fahleson; Rembolt Ludtke LLP (Nebraska)*

Kristi Boswell; U.S. Department of Agriculture (Washington, D.C.)

Employment and labor law continue to evolve and impact agriculture, from producers to marketers to processors. This presentation will highlight recent employment and labor developments that impact agriculture as well as trends for the future.

Track: *Private Practice*

Making Probate Great Again: Avoiding Probate Problems in the Office and Taking Probate Problems to the Court Room

Speakers: *Pat Dillon; Dillon Law PC (Iowa)*

Matt Craft; Dutton Braun Staack Hellman PC (Iowa)

Pat Dillon will present a discussion on ethical considerations and compliance with best practices based on recent probate cases, including discussion of ethical duties to clients, responsibilities to beneficiaries, consideration of social security rules and restrictions, determining testamentary capacity, probate office procedures to prevent claims of undue influence, dealing with multiple generations, drafting to avoid ambiguity and other actions to make the office portion of probate work ethical, efficient and non-litigious. Matt Craft will present a discussion on current issues in family farm litigation and challenging wills, undue influence claims, best evidence and trial strategies along with his advice to probate attorneys regarding how he questions attorneys in depositions and trial when they are defending wills.

Track: *Probate/Estate Planning*

1:00 pm – 1:45 pm Session #12: Featured Speaker (Plenary)

Addressing the Rural Opioid Epidemic: Federal Resources, Programs and Policies

Speaker: *Anne Hazlett; U.S. Department of Agriculture (Washington, D.C.) (confirmed)*

The opioid epidemic is affecting the entire country, in particular many of our rural communities. A lack of resources to tackle this challenge in rural areas is of major concern. Addressing this concern is a priority for the Administration and USDA. This presentation will focus on federal programs and initiatives aimed at supporting local and rural communities in combatting drug addiction and the opioid crisis, including programs focused on healthcare, housing, and mental health, as well as underlying causes of drug abuse related to poverty, food insecurity, education and transportation.

1:50 pm – 3:00 pm Session #13: Concurrent Breakouts

What is Food Law & Policy, and Why Should an Ag Law Attorney Care?

Speakers: *Susan Schneider; University of Arkansas School of Law (Arkansas)*

Neil Hamilton; Drake University Law School (Iowa)

Jennifer Zwagerman; Drake University Law School (Iowa)

The panel's topic will be the new discipline of food law & policy, with a focus on explaining what it is and how it relates to and impacts agricultural law. The panel will provide an overview of the development of food law & policy as a discipline, including its overlap with agricultural policy. Panelists will speak about the impact that the food movement has on agriculture, including agricultural opportunities presented by linking consumer preferences to new agricultural businesses and practices, as well as experiences teaching courses in food law to an agricultural law audience.

Track: *Policy/Food Law*

Legal Roles in State Agencies – Differences in Roles and Responsibilities

Moderator: Harrison Pittman, National Agricultural Law Center, University of Arkansas

Speakers: Brad Deacon; Michigan Department of Agriculture & Rural Development (Michigan)
Teena Gunter; Oklahoma Department of Agriculture, Food & Forestry (Oklahoma)
Clint Quarles; Kentucky Department of Agriculture (Kentucky)

Attorneys within state departments of agriculture fill varied roles based on delegated federal and state enforcement authority, state statutes, state constitutions, and history. Three states, representing different approaches to legal advice and counsel, will provide case examples of their roles as attorneys in state governments, with an emphasis on developing comprehensive legal advice to other state agencies and using that advice to inform cooperation with local, state and federal governments, and the food and agriculture industry.

Track: Practitioners (Combined)

Land Use Law for the Rural and Small Town Practitioner

Speakers: Peggy Kirk Hall; The Ohio State University (Ohio)

Anthony Schutz; Nebraska College of Law (Nebraska)

Jesse Richardson; West Virginia University College of Law (West Virginia)

Suburban development increasingly encroaches into areas that were previously almost exclusively agricultural, causing a sharp upsurge in land use based conflicts. Attorneys in these areas often lack knowledge of this specialized area of law. This session will introduce practitioners to land use regulation as it impacts agriculture. Speakers will address the nature of local governments, the role of comprehensive planning in land use regulation, zoning implementation, appeals and judicial review of local land use laws, and constitutional constraints. The session will help attendees recognize land use issues and utilize basic legal land use law principles to represent their clients.

Track: Private Practice

Risk Management for Farmers & Ranchers

Speaker: Louis Schuntich; Nationwide (Florida)

As part of the three-part track on estate planning and probate, our presenters will focus on risk management and asset protection of agricultural operations. With a focus on reducing the effects of risk, including preservation and improved operation performance, the presentation will focus on the five primary sources of risk: Production, Marketing, Financial, Legal and Human, and discuss strategies to mitigate and manage risk in these areas. Designed to complement the preceding presentation on probate issues and the following estate planning 2.0 presentation, this discussion will highlight the legal and other tools available to protect asset operations and mitigate risk in order to ensure long-term viability and future success.

Track: Probate/Estate Planning

3:15 pm – 4:30 pm

Session #14: Concurrent Breakouts

Farm to Retail: Supply Agreements & Supply Chain Liability

Speakers: Christopher Van Gundy; Kelly and Heckman LLP (California)

Kari Larson; K&L Gates LLP (Washington)

A discussion on various contractual relationships between growers, brokers, shippers, wholesale and retail distributors. Topics include supply chain liability as it relates to the various parties, and contractual and legal avenues for risk shifting through the chain.

Track: Practitioners (Combined)

Animal Science and Law: Advice to Your Client

Speakers: *Linda L. Chezem; Foley, Peden & Wisco (Indiana)*

Dr. Jodi Lovejoy; Indiana Board of Animal Health (Indiana)

Dr. Lovejoy and Linda L. Chezem developed educational modules for the justice system based on the premise that animal science should inform the enforcement of animal law. Those materials have been used to provide continuing education for law enforcement and prosecutors in Indiana. In this program, the discussion is expanded to what the private practitioner needs to know about animal science applied to the law in order to advise animal production clients on responding to law enforcement and prosecution. The aim of this section is to advance reasonable expectations in working with animal law enforcement.

Track: *Private Practice*

Family Farm Transition & Estate Planning 2.0

Speakers: *Derrick Davies; Oklahoma State University Foundation (Oklahoma)*

Shannon Ferrell; Oklahoma State University Department of Agricultural Economics (Oklahoma)

This presentation will dive into estate planning and transactional techniques for practitioners handling farm and agribusiness family estate and/or transition plans. From an estate perspective, the discussion will include managing estate transfers and handling estate tax liability (including how charitable giving and charitable trusts, can be utilized to help alleviate tax considerations for certain clients). Handling lifetime transfers of ownership, management, or profit-sharing will be examined through a number of transactional and business entity tools.

Track: *Probate/Estate Planning Track: Probate/Estate Planning*