



Wendy M. Yoviene

Shareholder

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Wendy M. Yoviene is a shareholder in Baker Donelson's Washington, D.C. office.

Ms. Yoviene serves as outside general counsel for business and trade association clients and is one of the firm's experienced federal court litigators.

Ms. Yoviene combines her decade-plus experience interfacing with state and federal agencies and legislatures with her litigation savvy to identify and bring about practical solutions for business problems in a highly regulated environment.

She also provides her clients with business advice and antitrust counseling, handles high stakes and complex litigation matters, including business disputes, administrative proceedings, Commerce Clause, Preemption, First Amendment and Class Action defense litigation, as well as hospital-physician peer review proceedings.

Among others, Ms. Yoviene represents numerous food and agriculture clients before state and federal agencies and in the litigation that arises out of such proceedings. She represents processor and producer groups in proceedings before the Food and Drug Administration, the United States Department of Agriculture and various state agencies. She has obtained numerous agency rulings and has successfully defended them in court. Ms. Yoviene is also well-versed in other agriculture regulatory programs, including the Perishable Agricultural Commodities Act (PACA); the National Organic Program; and food labeling issues such as those related to artificial growth hormones and cloning, food safety and standards of identity. In addition, Ms. Yoviene serves as regulatory counsel for food and agriculture clients in mergers and acquisitions.

Representative Matters

- Obtained U.S. District Court dismissal on filed rate doctrine grounds of nationwide class action alleging damages from purported improper reporting of end-product prices used by the United States Department of Agriculture to establish federal minimum prices payable to dairy farmers. *Carlin, et al. v. DairyAmerica, Inc. et al.*, 690 F.Supp.2d 11 (E.D. Cal. 2010).
- Obtained preliminary injunction on dormant commerce clause grounds against the Pennsylvania Milk Marketing Board's new regulation changing the method of calculating and distributing the Pennsylvania mandated premium for raw milk. *Fair Oaks Farm et al. v. Kriebel et al.*, M.D. PA 10-1591, slip opinion, (September 16, 2010)
- Intervened on behalf of the Pennsylvania Association of Milk Dealers in support of a decision by the Pennsylvania Milk Marketing Board not to extend its over-order premium pricing program to reach milk distributed in adjoining states and that decision was upheld on appeal. *DairyLea et al. v. Pennsylvania Milk Marketing Board et al.*, Commonwealth Court of Pennsylvania, slip opinion (August 6, 2010)
- Reversed a U.S. District Court summary judgment granted against client resulting in summary judgment in favor of client on critical First Amendment commercial speech issues; case was remanded to district court for final decision on the merits. The case settled after remand with Ohio withdrawing the offending regulation entirely. *Int'l Dairy Foods Ass'n v. Boggs*, 622 F.3d 628 (6th Cir. 2010)

- Intervened in support of regulations adopted by the U.S. Department of Agriculture, which were alleged to restrict access to the fluid milk market, but which were upheld on procedural and substantive grounds. *White Eagle v. Conner*, 553 F.3d 467 (7th Cir. 2009)
- Obtained affirmance on appeal following the successful defense of the Pennsylvania Milk Marketing Law against dormant Commerce Clause claims following a six-day bench trial. *Cloverland-Greenspring v. Pennsylvania Milk Marketing Board*, 462 F. 3d 249 (3d Cir. 2006)
- Obtained injunction on preemption and dormant Commerce Clause grounds against Kentucky's embargo of California nursery products already subject to United States Department of Agriculture quarantine rules. *California Association of Nursery Growers v. Farmer*, No. 04-38-JMH (E.D. Ky. 2004)
- Prevailed in dormant commerce case brought by Nevada farmers against the California Department of Food & Agriculture; CDFA had obtained dismissal of case on grounds that Congress consented to exemption from dormant commerce clause analysis. Obtained merits decision in favor of plaintiffs on remand. *Hillside Dairy et al. v. Lyons*, 539 U.S. 59 (2003)



Professional Honors & Activities

Professional Memberships

- Member – Agriculture Law Association
- Member – American Bar Association
 - Section on Administrative Law
 - Section on Litigation



Publications

- "Coronavirus: FDA Offers Guidance for Food Industry Stakeholders" (March 19, 2020)
- "Drug Testing and Legalizing Marijuana," *Northeast Dairy* (Third Quarter 2018)



Education

- University of Virginia School of Law, J.D., 1997
 - Editorial Board – *Virginia Journal of Social Policy & the Law*
- University of Virginia, B.A., 1992



Admissions

- District of Columbia
- Pennsylvania
- Virginia
- Court of Appeals of the District of Columbia
- Supreme Court of Pennsylvania
- Supreme Court of Virginia
- U.S. Court of Appeals for the District of Columbia Circuit
- U.S. Court of Appeals for the Ninth Circuit
- U.S. Court of Appeals for the Seventh Circuit
- U.S. Court of Appeals for the Sixth Circuit
- U.S. Court of Appeals for the Third Circuit
- U.S. District Court for the Eastern District of Virginia
- U.S. District Court for the Eastern District of Wisconsin
- U.S. District Court for the Middle District of Pennsylvania
- U.S. Supreme Court