



## 212 California Dreamin' (or Screamin'): Prop 65 & Other Labeling/Disclosure Requirements

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*Associate Counsel*  
Federated Department Stores Inc.

**Ronald C. Gahagan**  
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Philip Morris

**Andrea S. Ordin**  
*Senior Counsel*  
Morgan Lewis & Bockius LLP

**Scott T. Rickman**  
*Associate General Counsel*  
Del Monte Foods Company

## Faculty Biographies

### Christine Brandt

Christine L. Brandt works in-house as associate counsel to Federated Department Stores, Inc., the parent corporation of Macy's and Bloomingdale's, in the western regional law office located in San Francisco. Her office serves the Macy's West and Northwest divisions, as well as Bloomingdale's and the logistics division of the corporation. Her responsibilities include providing legal counsel and advice on issues affecting retail, including operations issues, regulatory law, and environmental issues. She works closely with outside counsel on Proposition 65 litigation matters.

Prior to joining Federated Department Stores, Ms. Brandt served as in-house counsel to Fireman's Fund Insurance Company in San Francisco. Prior to working in-house, her focus at private law firms included insurance coverage litigation in the areas of environmental and professional liability coverage.

Ms. Brandt received her B.A. from the University of California at Santa Barbara and her J.D. from the University of California, Hastings College of the Law.

### Ronald C. Gahagan

Ronald C. Gahagan, Jr. is senior counsel for Philip Morris USA Inc. in Richmond, Virginia. In this position his focus is on environmental, regulatory, FDA, and quality law.

Previously he was environmental and compliance counsel for American Household, Inc. in Boca Raton, Florida, where he concentrated on environmental, FDA, export compliance, and regulatory law. Before American Household he was an attorney in the environmental practice group at Thorp Reed & Armstrong, in Pittsburgh, Pennsylvania.

He received his B.A. from Villanova University, and a J.D. from George Washington University Law School.

### Andrea S. Ordin

Andrea Sheridan Ordin is a senior counsel in the litigation practice for Morgan Lewis & Bockius LLP and resident in the Los Angeles office. Ms. Ordin's practice focuses on complex business and environmental litigation, appellate litigation, and internal corporate investigations. Ms. Ordin has represented clients in a broad range of matters, including defense of anti-trust and unfair business practices claims, counseling in Proposition 65 actions, and defense of criminal and civil hazardous waste and nuisance actions in the state and federal courts. Recent representations include obtaining a defense verdict for a venture capital firm on an alleged \$151 million dollar contract after a three-

week jury trial in the Los Angeles Superior Court, and the successful defense of tort claims against the Commonwealth of Australia in the 9th Circuit. She is liaison counsel for national consumer product companies in a Proposition 65 environmental enforcement action and counsel for energy company defendants in state and federal litigation arising out of the California energy crisis.

Ms. Ordin served as the United States attorney for the Central District of California, supervising all criminal and civil litigation. Ms. Ordin was also chief assistant attorney general of the State of California, in charge of environmental, consumer, antitrust, charitable trust, and civil rights litigation.

A former adjunct professor at UCLA School of Law, Ms. Ordin is also a frequent author and panelist for continuing legal education programs.

Ms. Ordin received her B.A. from University of California, Los Angeles and her LL.B. from University of California, Los Angeles School of Law.

### Scott T. Rickman

Associate General Counsel  
Del Monte Foods Company

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**PROPOSITION 65 AND  
OTHER WARNING REQUIREMENTS**

**ACC Annual Meeting**  
October 23, 2006

**DEL MONTE FOODS**  
Scott Rickman

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**Panel Members**

- Scott Rickman, Moderator
  - Del Monte Foods
- Ronald C. Gahagan, Senior Counsel
  - Philip Morris USA
- Andrea S. Ordin, Senior Counsel
  - Morgan Lewis & Bockius LLP
- Christine Brandt, Associate Counsel
  - Federated Department Stores Inc.

## Proposition 65 Introduction

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- Enacted by ballot referendum in California in 1986
- In 20 years, no other state has enacted similar legislation
- Requires companies to warn consumers and members of the public when exposed to chemicals known to the State of California to cause cancer or reproductive toxicity
- Standard Warning (see next page)

## Standard Warning

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### **WARNING**

This area/product contains chemicals known to the State of California to cause cancer or reproductive toxicity.

## WARNINGS ARE EVERYWHERE

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- Premises:
  - Parking Garages
  - Service Stations
  - Bars
  - Restaurants
  - Macy's
- Products:
  - Bathroom Fixtures
  - Fishing Tackle
  - Chinese Herbs

## Industries Affected by Proposition 65

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- Appliance Manufacturers
- Retailers
- China and Glassware
- Food
- Others

## How Proposition 65 Affects Companies Based Outside California

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- Premises Defendants (e.g., retailers and restaurants)
- Products Defendants (e.g., food and consumer products)
- Does Proposition 65 turn Federalism on its head?

## Emerging Trends

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- Premises
- Consumer Products
- Food
- Effect of Recent Amendments
- B&P Section 17200

### Experience with the Attorney General's Office

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- Reasonableness
- Flexibility
- Prosecutorial Zeal
- Lockyer's Political Agenda

### Naturally-Occurring Exception

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- Naturally-Occurring Exception Explained
- Lead in Chocolate
- Mercury in Seafood
- Acrylamide and Benzene

### Proposition 65 and Federal Pre-Emption

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- Mercury in Seafood
- Tobacco-Related Issues
- Other Areas Appropriate for Pre-Emption

### Other Consumer Product Requirements Unique to California

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- California Air Resources Board (CARB)
- California Energy Commission
- California Rigid Plastic Packaging Container Law



## CANNED TUNA ADVISORY

**Pregnant and nursing women, women who may become pregnant, and young children should eat a limited amount of canned tuna and other fish.**

RECOMMENDED LIMITS\*: Women and children in these groups can eat up to 12 ounces of fish and seafood per week, including

- 2 meals (12 oz) per week of canned light tuna, or
- 1 meal (6 oz) per week of albacore white tuna.

BENEFITS: Canned tuna and other fish provide high-quality protein and other essential nutrients. A diet containing a variety of fish and shellfish can contribute to heart health and proper growth and development. Women, men, and children can all benefit from eating fish.

RISKS: Canned tuna and many other fish contain trace amounts of mercury and related compounds. Mercury can build up in the body and harm the developing nervous system of an unborn baby or young child. Albacore white tuna has more mercury than light tuna.

\*This is based on recommendations from the U.S. Food and Drug Administration ("FDA") (for more information see the FDA website at [www.cfsan.fda.gov/seafood1.htm](http://www.cfsan.fda.gov/seafood1.htm)) or call 1-888-SAFEFOOD.)

Griffin Tuna Warning 20

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