



## Perishable Agricultural Commodities Act (PACA) Counseling

The COVID-19 pandemic has caused a disruption in the supply chains of many food, beverage and agribusiness companies given panic buying, shelter-in-place orders altering or halting operations for non-essential businesses, and plants temporarily closing or reducing output due to employee cases of COVID-19. Lenders, vendors, restaurants, retailers and suppliers can get caught when there is a disruption in the supply chain and need to be aware of requirements under the Perishable Agricultural Commodities Act (PACA or the "Act"). Companies are grappling with new rules and challenges that have forced them to adjust or halt operations, including addressing issues under PACA.

PACA protects businesses dealing in fresh and frozen fruits and vegetables by establishing and enforcing a code of fair business practices and by helping companies resolve business disputes. The Act assures that suppliers of produce are paid by imposing a statutory trust on all produce-related assets, such as produce itself or other products held by agricultural merchants, dealers and brokers. A trust is created and must be maintained with respect to the proceeds of the sale subject to PACA to secure that full payment is made to producers and wholesalers of agricultural products.

Saul Ewing Arnstein & Lehr's Food, Beverage and Agribusiness attorneys help companies ensure that their contracts and business methods optimize outcomes for growing, packing, buying, selling and shipping agricultural commodities, including advising on matters related to PACA. When there is a breakdown or disruption in the supply chain either "upstream" or "downstream," we assist clients that need to be made whole. Our team advises on a variety of PACA-related matters, including:

- Advising on PACA compliance and strategies to recover funds when customers breach their duties, including seeking to recover attorneys' fees and interest.
- Resolving outstanding payment disputes without litigation.
- Seeking the most cost-effective venue if litigation becomes necessary, with particular experience litigating PACA claims.
- Helping ensure proper contracting methods and forms, including drafting or reviewing client invoices and contracts with customers to help ensure compliance with the Act.
- Counseling on best practices in the industry.
- Advising on priority claims inside and outside of the PACA trust.
- Executing and enforcing judgments obtained through litigation.

### For any PACA-related questions, please contact:



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