



## The FYI Column: November 2021

### FYI COLUMN, PROPOSITION 65, CHEMICALS OF INTEREST, US FDA, PESTICIDES/HERBICIDES/FUNGICIDES

By FIONA SMITH, November 23, 2021

#### Personal Care Products

It's enough to make your blood pressure rise—the maker of the over-the-counter blood pressure medications Irbesartan and Hydrochlorothiazide has voluntarily recalled the certain of its tablets due to elevated levels of N-nitrosoirbesartan—a probable human carcinogen, **reports the Oregonian**<sup>1)</sup>.

The FDA has called out a hand sanitizer maker after finding benzene, acetaldehyde and acetal contaminants in its products, **according to KTLA**<sup>2)</sup>.

And the FDA is also throwing shade on sunscreens—Searcy Denney Scarola Barnhart & Shipley PA discusses how an array of sunblocks contain carcinogens and what the FDA has been doing about it.

Johnson & Johnson is looking for bankruptcy protection in the wake of big payouts related to litigation claiming its baby powder causes cancer, **according to the New York Times**<sup>3)</sup>.

#### PFAS

The states, including California, are busy passing PFAS regulations and **Bryan Cave Leighton Paisner LLP lays it out**<sup>4)</sup> state-by-state with maps and charts.

Keller & Heckman also discusses the details of recent state-level bans (Connecticut and Vermont) on PFAS that focus on food packaging and some other products.

Meanwhile, the FDA has been testing a range of foods for levels of PFAS as part of its Total Diet Study. Keller & Heckman describe the results from **testing on processed foods**<sup>5)</sup> and **also from raw foods**<sup>6)</sup>.

**PFAS gets the John Oliver treatment**<sup>7)</sup>—complete with references to Gordon Ramsey, devil's piss and magic. There is a cameo appearance for those that watch till the end.

And crybabies take note—InStyle writes that **most waterproof mascara contains PFAS**<sup>8)</sup>.

#### Food

The EU has revised its rules setting allowable levels of lead and cadmium in food **as described by**

## **Keller and Heckman<sup>9)</sup> .**

Back on this side of the Atlantic, the issue of heavy metals in baby food is still on the mind of Congress. Several months after the U.S. House of Representatives Committee on Oversight and Reform issued a report concluding that there were unsafe levels of cadmium, lead, arsenic and mercury in a range of major baby foods, that same committee has released a new report with additional test results on the Plum Organics, Walmart and Sprout Foods brands of baby food. **Keller and Heckman breaks it down<sup>10)</sup>** . Some of those companies have pushed back on the latest Congressional report—their responses are **detailed by FoodNavigator-USA<sup>11)</sup>** .

Graduating from baby food onto kid's cereal—**Environmental Working Group calls out cereal brands<sup>12)</sup>** including Cap'n Crunch and Apple Jacks for containing the preservatives butylated hydroxyanisole (BHA) and butylated hydroxytoluene (BHT), which it claims are linked to hormone disruption, reproductive harm and cancer.

## Chemicals

Move over glyphosate—the pesticide chlorpyrifos could be the next big name in product liability litigation warns Clyde & Co LLP.

The cumulative effects of the cocktail of chemicals humans are exposed to is tricky to study, but this new paper **published by Environmental Health Perspectives<sup>13)</sup>** discusses a potential framework for studying the long-term cancer effects from multiple substances.

## Miscellaneous

Several recent court decisions have things looking less rosy for online retailers hoping to avoid liability for third parties selling products on their platforms, according to this analysis by Steptoe & Johnson LLP.

What does a non-toxic label on a product mean? Frankfurt Kurnit Klein & Selz PC discusses a recent New York court decision in a case alleging the non-toxic label on Windex was misleading.

U.S. EPA's recommendation that water suppliers use the WET method for measuring water toxicity did not violate the Administrative Procedure Act, according to a 9th Circuit ruling broken down by Taft Stettinius & Hollister LLP.

Like its cousin cannabis, hemp is getting mainstreamed by California. The state Legislature approved, and Gov. Gavin Newsom has signed, a bill governing the sale of hemp products. **Keller and Heckman provides<sup>14)</sup>** the details.

Proposition 65 as a model for anti-abortion legislation. Wait, what? Well, a Texas legislator looked to the citizen enforcement mechanism of that California ballot initiative when writing the recent legislation banning almost all abortions in the state, **according to News4Jax<sup>15)</sup>** .

Ok, other strange Prop. 65 bedfellows—Taco Bell and anti-vaxxers. **The Daily Mail writes<sup>16)</sup>** about a woman's TikTok riposte to skeptics of the COVID-19 vaccine, asking if they also refuse to eat Taco Bell despite it providing a Prop. 65 warning for some of its products.

## Resources for this article

### 1. reports the Oregonian

<https://www.oregonlive.com/health/2021/10/blood-pressure-medication-recalled-for-possibly-containing-cancer-causing-impurity.html>

### 2. according to KTLA

<https://ktla.com/news/nationworld/fda-warns-about-artnaturals-hand-sanitizer-found-to-contain-cancer-causing-chemicals/>

### 3. Searcy Denney Scarola Barnhart & Shipley PA discusses

[https://www.lexology.com/library/detail.aspx?g=40cfa9b-919f-435c-97a8-f2c7cd422fe9&utm\\_source=Lexology+Daily+Newsfeed&utm\\_medium=HTML+email+-+Body+-+General+section&utm\\_campaign=Lexology+subscriber+daily+feed&utm\\_content=Lexology+Daily+Newsfeed+2021-10-12&utm\\_term=](https://www.lexology.com/library/detail.aspx?g=40cfa9b-919f-435c-97a8-f2c7cd422fe9&utm_source=Lexology+Daily+Newsfeed&utm_medium=HTML+email+-+Body+-+General+section&utm_campaign=Lexology+subscriber+daily+feed&utm_content=Lexology+Daily+Newsfeed+2021-10-12&utm_term=)

### 4. according to the New York Times

<https://www.nytimes.com/2021/10/14/business/johnson-johnson-bankruptcy-talc-claims.html?smid=url-share>

### 5. Bryan Cave Leighton Paisner LLP lays it out

[https://www.lexology.com/library/detail.aspx?g=7d7c8903-04c5-4590-bd86-b3bd06e9d115&utm\\_source=Lexology+Daily+Newsfeed&utm\\_medium=HTML+email+-+Body+-+General+section&utm\\_campaign=Lexology+subscriber+daily+feed&utm\\_content=Lexology+Daily+Newsfeed+2021-09-06&utm\\_term=](https://www.lexology.com/library/detail.aspx?g=7d7c8903-04c5-4590-bd86-b3bd06e9d115&utm_source=Lexology+Daily+Newsfeed&utm_medium=HTML+email+-+Body+-+General+section&utm_campaign=Lexology+subscriber+daily+feed&utm_content=Lexology+Daily+Newsfeed+2021-09-06&utm_term=)

### 6. Keller & Heckman also discusses

[https://www.lexology.com/library/detail.aspx?g=1c91cb3f-9b6a-4059-91c4-bd537d69515d&utm\\_source=Lexology+Daily+Newsfeed&utm\\_medium=HTML+email+-+Body+-+General+section&utm\\_campaign=Lexology+subscriber+daily+feed&utm\\_content=Lexology+Daily+Newsfeed+2021-08-30&utm\\_term=](https://www.lexology.com/library/detail.aspx?g=1c91cb3f-9b6a-4059-91c4-bd537d69515d&utm_source=Lexology+Daily+Newsfeed&utm_medium=HTML+email+-+Body+-+General+section&utm_campaign=Lexology+subscriber+daily+feed&utm_content=Lexology+Daily+Newsfeed+2021-08-30&utm_term=)

### 7. testing on processed foods

<https://www.dailyintakeblog.com/2021/08/fda-pfas-testing-update-processed-foods/>

### 8. also from raw foods

<https://www.dailyintakeblog.com/2021/07/fda-issues-update-on-testing-of-pfas-in-food/>

### 9. PFAS gets the John Oliver treatment

<https://www.youtube.com/watch?v=9W74aeuqsiU>

### 10. most waterproof mascara contains PFAS

<https://www.instyle.com/beauty/makeup-with-pfas-list>

### 11. as described by Keller and Heckman

<https://www.dailyintakeblog.com/2021/08/eu-revises-lead-and-cadmium-limits/>

### 12. Keller and Heckman breaks it down

<https://www.dailyintakeblog.com/2021/10/new-house-report-on-heavy-metals-in-baby-food/>

### 13. detailed by FoodNavigator-USA

<https://www.foodnavigator-usa.com/Article/2021/09/30/Beech-Nut-Gerber-hit-back-as-2nd-Congressional-report-accuses-more-baby-food-brands-of-a-lax-approach-over-heavy-metals#>

### 14. Environmental Working Group calls out cereal brands

<https://www.ewg.org/news-insights/news/2021/10/common-food-additives-capn-crunch-and-apple-jacks-cereal-may-harm-human>

### 15. warns Clyde & Co LLP

<https://www.lexology.com/library/detail.aspx?g=dc2d9dc8-d8e5-4b15-82f1->

12bc1f65722e&utm\_source=Lexology+Daily+Newsfeed&utm\_medium=HTML+email++Body+-+General+section&utm\_campaign=Lexology+subscriber+daily+feed&utm\_content=Lexology+Daily+Newsfeed+2021-09-06&utm\_term=

**16. published by Environmental Health Perspectives**

[https://ehp.niehs.nih.gov/doi/10.1289/EHP9879?utm\\_source=SendGrid&utm\\_medium=email&utm\\_campaign=Monthly+TOC+Alert](https://ehp.niehs.nih.gov/doi/10.1289/EHP9879?utm_source=SendGrid&utm_medium=email&utm_campaign=Monthly+TOC+Alert)

**17. analysis by Steptoe & Johnson LLP**

[https://www.lexology.com/library/detail.aspx?g=f171bc83-ea44-48f7-a376-62b8a0fad5bb&utm\\_source=Lexology+Daily+Newsfeed&utm\\_medium=HTML+email++Body+-+General+section&utm\\_campaign=Lexology+subscriber+daily+feed&utm\\_content=Lexology+Daily+Newsfeed+2021-09-06&utm\\_term=](https://www.lexology.com/library/detail.aspx?g=f171bc83-ea44-48f7-a376-62b8a0fad5bb&utm_source=Lexology+Daily+Newsfeed&utm_medium=HTML+email++Body+-+General+section&utm_campaign=Lexology+subscriber+daily+feed&utm_content=Lexology+Daily+Newsfeed+2021-09-06&utm_term=)

**18. Frankfurt Kurnit Klein & Selz PC discusses**

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**19. broken down by Taft Stettinius & Hollister LLP**

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**20. Keller and Heckman provides**

<https://www.dailyintakeblog.com/2021/10/california-passes-hemp-bill-into-law/>

**21. according to News4Jax**

<https://www.news4jax.com/news/politics/2021/09/11/could-texas-abortion-ban-strategy-be-double-edged-sword/>

**22. The Daily Mail writes**

<https://www.dailymail.co.uk/femail/article-9978285/Woman-mocks-anti-vax-fertility-argument-shows-TACO-BELL-carries-reproductive-harm-warning.html>