

# AGRICULTURE

Agricultural legal issues are wide-ranging, and Hodgson Russ can assist with every legal need of the agricultural business community. We know that farming is not just a job, it's a way of life, and we can provide cost-efficient protection to the families, businesses, and communities that are the agriculture industry.

Agribusiness is a constantly evolving, increasingly hi-tech, highly regulated industry. Led by a longtime owner, breeder, and rider of national champion horses, our Agriculture Practice represents family and corporate farmers, producers, cooperatives, production facilities, equipment manufacturers, landowners, lenders, and public agencies. Find the peace of mind that comes with thorough professional advice on legal transactions and procedures with the attorneys of Hodgson Russ on these and other areas of law:

## **Business, Tax, and Succession Planning**

From choice of entity structures to ensuring that future generations can continue the legacy, we assist at every stage of our client's business. Our clients range from cooperatives and global corporations to small family businesses. We provide solutions for family and business legal issues through intergenerational estate planning and tax efficient transfers of land and farm operations, establishing trusts, joint ventures, partnerships, and corporations, and using appropriate methods such as Buy-Sell Agreements and Partnership Agreements. In fact, Hodgson Russ was among the first law firms to implement estate planning strategies involving the use of family limited partnerships and related entities, in the agribusiness context.

## **Commercial and Financial Transactions**

The agriculture industry has its own unique capital and contractual systems and Hodgson Russ has the experience needed to help your agribusiness maximize profit opportunities while mitigating risk exposure. Hodgson Russ recognizes that different business models - be it focusing on local restaurants and farm share customers, selling bulk commodities, or specialty on-site markets, and u-pick operations. All of these have different distribution channels and capital needs, just as different products have differing perishable lives. We can assist you with:

- Commercial transactions including seed contracts, feeding arrangements, agriculture production contracts, livestock purchase and lease agreements, embryo transfer contracts, marketing agreements, and other specialized agreements
- Farm business/cooperative formation and governance

## **Contact**

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## **Professionals**

### **Attorneys**

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## AGRICULTURE

- Federal crop payments
- Financing and credit, including Farm Service Agency programs
- Equipment Leases
- Debt Collection and Bankruptcy

### **Urban Farming**

Urban agriculture presents a unique set of challenges. From navigating zoning regulations to obtaining access to land and dealing with municipal utilities, Hodgson Russ guides urban gardeners, farmers, and food entrepreneurs on the path to success.

### **Equine Law**

Our Equine Law Practice addresses this unique segment of the agriculture industry with practical, long-term experience and insight into the legal issues facing horse owners, breeders, trainers, and businesses. Our representation includes equine-related advice for all your legal needs, including litigation and dispute resolution, contracts, financing and corporate transactions, real estate acquisition, zoning, immigration, employment, and tax and estate planning.

### **Products Liability and Dispute Resolution**

Public health concerns are paramount across the agriculture supply chain, where even a small outbreak of foodborne illness can have regional and national implications. Our clients have turned to Hodgson Russ to guide them through USDA and FDA recalls and food safety lawsuits. We represent businesses in disputed matters involving a full spectrum of issues, including breach of contract, products liability, animal welfare, environmental, and disputes arising under the Perishable Agricultural Commodities Act (PACA). We defend trespass and nuisance claims brought against the industry, challenge unfair tax assessments, and right to farm provisions. Additionally, we have significant experience in farm equipment and liability suits utilizing our extensive experience in personal injury litigation, manufacturer's liability, and our understanding of the agriculture industry.

### **Farm and Commercial Real Estate Issues**

That land is the essential element in the agriculture industry is an understatement; having a law firm stand with you that understands the complexities in real estate law in the industry is just as essential. Our attorneys represent individuals and businesses in the context of real property purchases and sales, agricultural leases involving land, equipment, mineral development, oil and gas, and solar and wind power. We provide clear, cost efficient assistance on risk allocation, lien rights, and hybrid arrangements.

We also provide advice and counsel on matters involving landowner liability, water rights, utility right-of-way issues, urban encroachment, and local zoning laws.

### **Environmental Law and Regulations**

## AGRICULTURE

We work with our clients to enable them to comply with the Clean Air Act, the Clean Water Act, the Federal Insecticide, Fungicide, and the Rodenticide Act as well as chemical bulk storage regulations, conservations programs, animal feeding and other federal and state laws and regulations. We also represent businesses before the Food and Drug Administration (FDA) and the United States Department of Agriculture (USDA). We also assist clients involved in federal conservation programs (land retirement and working lands programs) administered by the Natural Resources Conservation Service (NRCS), the Farm Service Agency (FSA), and the U.S. Forest Service.

### **Labor and Immigration**

Agricultural businesses can require varying levels of employees at specific times of the year, raising unique questions. Our Labor Practice attorneys represent farms and businesses when dealing with labor and employment-related laws and regulations, such as the Migrant and Seasonal Agricultural Worker Protection Act, the Fair Labor Standards Act, the Occupational Safety and Health Act (OSHA), state workers' compensation laws and wage and hour laws. Our Immigration Practice attorneys can also assist with the increasingly complex area of immigration requirements and related issues including I-9 compliance and H2A applications.

### **Navigating Governmental Regulations**

The labyrinth of state and federal regulations impacting the agriculture industry present daunting challenges. Our experience and knowledge in this industry allows us to guide compliance with food sanitation and safety regulations, nutrition, allergen, organic and GMO labeling requirements, food facility registration, and best management practices. We provide leadership in addressing enforcement actions and food recalls. Hodgson Russ provides advice on local health regulations as well as federal regulations under the U.S. Department of Agriculture (USDA) and Food and Drug Administration (FDA). We guide clients through the federal and state alcohol licensing process, including obtaining Alcohol and Tobacco Tax and Trade Bureau permits and state licenses. We also assist clients in dealing with international standards and food imports issues, issues relating to Animal Identification and the traceability of U.S. livestock, Aquaculture and fishing (as state regulations vary widely) and the Organic Foods Production Act of 1990.

### **Exports/International Trade Agreements**

The global nature of agribusiness creates enormous opportunity for sales of products in export markets and the import of supplies, equipment, and technology. Hodgson Russ has the experience and cross-border knowledge and insight to assist domestic and international farmers and businesses in this burgeoning market.

### **Insurance Coverage**

Addressing insurance issues requires detailed knowledge of the insurance industry as well as the risks faced by our client's particular operations. Our Insurance Coverage attorneys provide expert advice on issues arising under the Federal Crop Insurance Act or private plans, or within contractual disputes concerning responsibility for losses.

### **Intellectual Property & Trademarks**

## AGRICULTURE

Our intellectual property attorneys represent clients during the complex process of obtaining patents, trademarks, and copyrights. Please visit our Intellectual Property Practice and Trademark & Domain Name Practice pages to learn more.

### **Renewable Energy**

We help farms and other businesses produce energy from renewable sources such as solar, hydropower, anaerobic digestion and other biomass projects, wind power, geothermal, and biofuels. We also structure financial arrangements and advise on leases with developers. Please visit our Cleantech Practice to learn more.

### **Agritourism**

Diversification opportunities can provide income and future sustainability for farms, but the intersection of agriculture and tourism provides both revenue opportunities and potential liability issues. We represent businesses in this growing sector, such as pick-your-own and demonstration farms, petting and feeding zoos, dude ranches, establishments that offer on-site lodging, and wineries and breweries that offer weddings, tours, and tastings. Moving from concept to successful business while protecting your existing assets requires experience and clear advice, as rural entrepreneurs often face unique challenges to this sector in addition to those more typical challenges of a business start-up. Please visit our Winery, Brewery & Spirits Practice and our Hotel, Hospitality & Lodging Practice to learn more about our related capabilities in this area.

### **Experience**

Assisted lenders in the closing of commercial loans and lines of credit for manufacturing facilities throughout the U.S.

Hodgson Russ attorneys assisted a government-sponsored finance entity with construction-to-term loan to complete six greenhouses and related infrastructure for a borrower specializing in hemp tea.

Hodgson Russ attorneys advised an equipment manufacturer on the statutory and regulatory framework concerning the cultivation, processing, and distribution of hemp and hemp products.

Hodgson Russ represented a leading Greek yogurt manufacturer in defense of breach of contract and Consumer Protection Act claims and in support of counterclaims for trade secret misappropriation. We obtained summary judgment for our client, dismissing the Consumer Protection Act claim, and we defeated the plaintiff's summary judgment motion seeking dismissal of trade secret claims.

Hodgson Russ attorneys have provided numerous clients with government relations, lobbying, and other legal work regarding medical marijuana and related facilities business in New York.

### **Publications**

USDA Publishes Final Rule and Guidance for Domestic Hemp Production  
*Hodgson Russ Hemp & Medical Cannabis and Agriculture Alert*, February 10, 2021

## AGRICULTURE

USDA's Final Rule on Domestic Hemp Production Subject to Biden Administration's "Regulatory Freeze Pending Review"

*Hodgson Russ Hemp & Medical Cannabis and Agriculture Alert*, January 22, 2021

Coronavirus Legislation and Programs - What Agricultural Producers Should Know

*Hodgson Russ Agriculture Alert*, April 20, 2020

California Amends Proposition 65 Notification Requirements

*Hodgson Russ Litigation Alert*, April 6, 2020

New York Governor's Marijuana Legalization Proposal Would Create Three New Taxes

*State and Local Tax Alert*, January 17, 2019

FDA Issues Draft Guidance For Farmers And Food Processors Under The Food Safety Modernization Act

*Agriculture Alert*, November 6, 2018

Agricultural Tourism Act Aims to Protect the Agritourism Industry

*Agriculture Alert*, July 25, 2018

Tax Law Changes Impacting Real Estate Owners, Developers, and Investors

*Tax Alert*, March 8, 2018

Agricultural Producers to Market Through Cooperatives

*Agricultural Alert*, February 21, 2018

Tax Cuts and Jobs Act Ushers in Big Changes to the Estate and Gift Tax

*Estates and Trusts Alert*, December 27, 2017

## **Presentations & Events**

From Canada to the US: Strategies for Sending Employees to the US to Work

Trade Accelerator Program (TAP) Toronto

December 31, 2021

2020 Cornell Cooperative Extension Eastern NY Fruit & Vegetable Conference

Desmond Hotel & Conference Center, February 26, 2020

Law at the Intersection of Renewable Energy and Agriculture

White Plains, New York 10603, November 6, 2019