

The Tasting MENU

APPETIZERS

Prop 65 – Check Your Receipts

Bisphenol S (“BPS”) is the new hot target for Proposition 65 claims in California. BPS is commonly used in thermal paper receipts (e.g., cash registers, credit card printers, hand-held payment receipt printers, ATMs, etc.). The obligation to warn for BPS began on December 29, 2024 and private enforcers are already issuing Notices of Violation and filing lawsuits against retailers for failing to warn about BPS in receipts. This raises various questions and logistical issues for restaurants, retailers, and any business using thermal paper receipts in California such as: Do retailers need to provide a Prop 65 warning for receipts containing BPS? If yes, is it sufficient to print the warning on the receipt itself? While these questions have not yet been litigated, we recommend businesses assess their use of thermal paper and Prop 65 compliance as soon as possible to avoid Prop 65 claims. Contact [Whitney Jones Roy](#) or [Jeff Parker](#) for more information.

Swipe Fees Take a Bigger Bite

For every meal paid with a credit card, restaurants pay a fee—one that has more than doubled in the past decade due to lack of competition in the credit card processing market. Swipe fees now rank as the third highest operating expense for restaurants. Unlike ingredient costs, which fluctuate with the market, these fees are locked in by two major credit card networks that control 80% of transactions. Enter the *Credit Card Competition Act (CCCA)*—legislation designed to introduce choice into the credit card processing space. The bill would require large card-issuing banks to enable at least two competing networks on their cards, allowing restaurants to shop for lower fees. If passed, the CCCA could save restaurants and consumers an estimated \$15 billion annually. For an industry still recovering from pandemic-era challenges and inflationary pressures, relief from excessive swipe fees could mean reinvesting in employees, keeping menu prices stable, and ensuring the sustainability of Main Street restaurants. Contact [Melissa Mikail](#) to discuss.

Restaurant Work | Task Force

The Sheppard Mullin Restaurant Task Force is a vertically integrated team of attorneys who coordinate their institutional knowledge of the restaurant industry and legal expertise to provide seamless representation. The team delivers a full menu of resources on matters that particularly affect the restaurant industry, including counseling clients through acquisitions, joint ventures and fund formation, franchise, supplier, and distribution agreements, data privacy, labor and employment, financing, bankruptcy and restructurings, ADA, and lease issues. The Tasting Menu is a collection of emerging issues we see impacting this industry.

MAINS

Restaurants Should Stick to Dishwashing – Not AI Washing!

In January 2025, the Securities and Exchange Commission (SEC) [announced](#) that it settled charges of AI washing against Presto Automation Inc., a restaurant-technology company, for making materially false and misleading statements in SEC filings and public statements about its flagship AI product, Presto Voice. AI washing is a deceptive marketing tactic where companies overstate or falsely claim the integration of artificial intelligence (AI) in their products or services. This practice is similar to "greenwashing," where companies exaggerate their environmental efforts to attract consumers.

Presto Voice used AI-assisted speech recognition technology to automate aspects of drive-thru order taking at quick-service restaurants. The key allegations were that: i) Presto failed to disclose that the AI speech recognition technology was initially owned and operated by a third party and was not its own proprietary technology; ii) it falsely claimed that its own, later-developed, AI product eliminated the need for human order-taking, when the vast majority of drive-thru orders placed through this version of Presto Voice required human intervention; and iii) it misleadingly disclosed its reported rate of orders completed without human intervention using this technology. The SEC found these statements were material and made in connection with offering and selling securities. It also found that Presto failed to design, implement, or maintain disclosure controls and procedures to ensure that the AI claims and other information disclosed by Presto in Commission filings was accurate and not materially misleading. This case highlights the importance of accurate disclosures regarding AI capabilities, including in the restaurant technology sector. Restaurants must come “clean” with their disclosures without AI “washing.” The enthusiasm around AI abounds but over-hyping the facts can lead to legal issues. False or misleading statements can also be actionable under consumer protection laws implemented by the FTC. For more details, see the SEC [Order](#). Contact [James Gatto](#) to discuss.

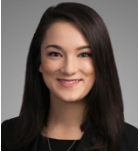
DESSERTS

The 2025 Expo West Natural Foods Conference was truly the “buffet table” of opportunity for the restaurant industry, offering a wealth of insights and innovations. Key discussions revolved around tariffs, export controls, PFAS, and Prop 65, underscoring their significance in today's market. Additionally, there was a strong focus on FDA regulatory requirements and changes, highlighting the industry's dynamic nature. Notably, raw ingredients took center stage alongside numerous store-ready products, showcasing the diversity within the sector. The rise of artificial intelligence (AI) was a prominent theme, with many companies expressing concerns about data security. Optimism permeated the event, as the industry anticipates robust growth post-Covid. With an impressive turnout of 88,000 attendees, nearly 3,800 exhibitors, and participants covering an average of 8 miles each day, Expo West proved to be a tasteful and invaluable experience.

Restaurant Task Force



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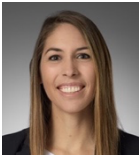
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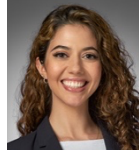
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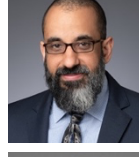
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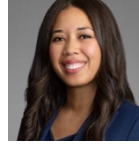
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