

Speaker 1: Hello, and welcome to legal food talk. I'm your host, Justin Prochnow, a shareholder in the Denver office of the international law firm, Greenberg Traurig. And this is a podcast brought to you by our food beverage and agribusiness practice. To give you some insights [00:00:30] and knowledge about the world of food, beverage and agribusiness. We've done several podcasts, including one on immunity claims during COVID. And then last time out, I was joined by a special guest. My father, Jim Prochnow who works with me here in the Denver office at Greenberg cherish. Today, I'm joined by my colleague and co-chair of the food beverage and agribusiness practice. She puts [00:01:00] the AE in agribusiness. Let me introduce you to my colleague, Arlene Nand.

Speaker 2: Thank you, Justin. It's great to join you today.

Speaker 1: Well, thanks for joining us first. Tell us a little bit about yourself. You joined us here a couple of years ago, and tell us a little bit about what you do here at Greenberg.

Speaker 2: Um, so I'm thrilled to be here and I am based in the Minneapolis office and I chair our global agribusiness practice. [00:01:30] Um, and my day-to-day practice. I am a transactional finance lawyer and represent mainly banks and hedge funds and various credit situations. Um, in the last year with, uh, you know, COVID, there has been more of an emphasis on, uh, distress, you know, distress credits. Um, and so we've been working with, uh, various lenders and at times fortune 500 companies, uh, to work through their portfolios. So that's what I do on a daily basis. And I also with you and with Rick Shackleford and our colleague, um, [00:02:00] in California coordinate our global strategy on the food beverage and agribusiness industry initiative. So

Speaker 1: Well, great. Well, you said Minneapolis, it's hard to, uh, here in Minneapolis and not say something about the weather, especially since I was born in Minnesota, my parents both grew up in Minnesota. What's the weather like in Minneapolis?

Speaker 2: You know, it was sunny over the weekend. I'm just looking at the temperature now. I believe it is nine degrees. So it was a little [00:02:30] chilly. It's a single digit one in front of it. Yeah, no, it's actually, you know what? It was nine this morning. It's 11 degrees now, so that is good. And it's supposed to reach a high of 14 today, so we're, we're, uh, falling out a little bit.

Speaker 1: So I'll be like those tunnels and the overhead walkways and then yeah, yeah.

Speaker 2: I'm originally from Seattle. When I first moved to Minneapolis, you know, 17 years ago, I was amazed that they [00:03:00] even had a special snowplows for the sidewalks and downtown. So that's worked here.

Speaker 1: All right. Well, we won't well on weather too much, but, um, you know, I think what would be helpful for a lot of our, of our listeners is maybe to, to dial it back even a little bit further to what is agribusiness food and beverage pretty self-explanatory most everyone knows. Agribusiness is a little bit more of a, of an unknown to people, you know, probably, you [00:03:30] know, the thought goes to farming, obviously a lot more than that. Can you tell us a little bit about what agribusiness really is? Sure.

- Speaker 2: So it's the industry related, as you've mentioned the farming, but also the farming inputs. So anything with respect to, you know, see producers fertilizers also there's an equipment component. Anything that actually is involved in sort of generating the food product, um, you know, as soon as you put it in the ground or if it's livestock on live animals, you know, helping grow, [00:04:00] uh, grow those, grow those products. So it's, it's really kind of a continuum of everything that, you know, we like to say in the industry from farm to fork, so that kind of that continuation, and as you start to develop more of the product, it's, you know, harvested and, and kind of goes through the supply chain, then you start to kind of have an overlap with the food industry and as applicable the beverage industry, but it isn't just sort of the farming, it's all of the inputs that go into it. Um, as I mentioned, like fertilizer seed [00:04:30] and, and other sort of chemicals as well,
- Speaker 1: When, so I mean, of course, for, for restaurants and for those foodies out there, the, the farm to table farm to fork is, uh, you know, is a common thing these days and kind of touted by a lot of restaurants. Hopefully they're all still in business, which is, you know, not necessarily a thing these days. So when they're saying farm to table farm to fork, I mean, they're probably incorporating [00:05:00] a lot of aspects of agribusiness into those restaurants, I would think.
- Speaker 2: Yes. And you know, a lot of times, you're not now starting to see with some of these farm to fork presentations, you like to see sort of a tracking of the supply chain. And we have seen some producers that are using aspects of smart technology and, and sort of a blockchain to try to track the supplier, uh, the supply of the food throughout the, the value chain that, that the supply chain, um, as a food is produced and eventually [00:05:30] served at a restaurant or sold to a grocery store and got brought into your home. So there, there was a lot of smart technology applications that we are seeing in industry in a lot of industry innovations, which brings in IP aspects and other aspects that you wouldn't traditionally associate with agribusiness.
- Speaker 1: Is there an epicenter of agribusiness? I mean, obviously with the texts and it was always, you know, Silicon valley and, you know, um, is, is agribusiness. I mean, what we would think, you know, [00:06:00] the Midwest that the Minnesota, the aisle was at the world, or, or is it kind of spread out throughout the country,
- Speaker 2: It's really spread out. You, you certainly have the Heartland. And then when you would traditionally associate with the breadbasket of the us in terms of, you know, wheat and grains, but you also have, uh, you know, California with fruits, um, and dairy as well and Wisconsin, Florida. I mean, it's, it's very disparate. There are, um, the USDA has produced several, um, very interesting maps, which lays [00:06:30] out which states produce the most amounts of, um, of agribusiness and it's sector dependent. So within the agribusiness sector, you'll have grain, you'll have protein and dairy. You'll have, you know, fruits and vegetables. You, you have, uh, you have a wide array of products that are being produced and it's not just concentrated in one single area of the country. It's all disparate. And so, you know, for instance, a practical way to think about this is that with, uh, you know, the, the changes in Congress, [00:07:00] the agricultural chair for

the, for the house, us Congress, the house of representatives used to be Collin Peterson in Minnesota.

Speaker 2: He, you know, recently lost his election. So now it is going, it's gone to somebody else and there's going to be a different regional focus depending on where that Congressman comes in from. So it's, it's very much a regional focus produced, um, you know, just because of the weather variables. And so it's, it's pretty disparate there. Isn't just one epicenter that I would think in the U S certainly there are states that, um, have a heavier reliance of their economy on ag, but [00:07:30] it's, it's not, it's, you know, it's, it really is, uh, across the value chain. So,

Speaker 1: And, and you, you mentioned something just to clarify for people when, when we're talking about agriculture, it's not just growing things, it is also animals, right. That are being produced for food, or, or I suppose for clothing, like wool from, from sheep,

Speaker 2: Right. I mean, you have, you know, you have the traditional, the, the, um, you know, fruits and vegetables, [00:08:00] but you also have livestock poultry, dairy fiber. I mean, you know, which would kind of goes into the, the, the part. And then you also have this other, the ethanol aspects as well. That is also sometimes an agronomy that's ultra wrapped into the, under the activism, uh, umbrella. So

Speaker 1: It's obviously, I mean, th th they all kind of, as, as you indicated, you know, overlap together, which is, which is why we have that group here with the food beverage agribusiness. And [00:08:30] I think it's only going to continue to happen as we, you know, continue to look for other sources of foods, obviously at expo west 2020, which, uh, you know, never happened. We were on the, on the verge of, of going out there and we were going to be doing a panel on plant-based food alternatives, and, you know, had a great panel lined up and, uh, know there's so many products out there these days, whether it's a cauliflower pizza [00:09:00] or the garbanzo bean pasta, you know, we have a lot of clients who are making great, you know, innovative plant-based food alternatives type of products. And, you know, obviously relying on crops where they might've been relying on, uh, you know, other types of items before, but even crossover between the two, you know, uh, where they might've used grains before, and now they're using, uh, vegetables. We have a client who, you know, is [00:09:30] doing algae-based seafood product, you know, that looks and tastes like shrimp, but it's made from, you know, algae-based products. Uh, so it seems like, uh, you know, the plant-based food areas and area that will only continue to grow in the agribusiness sector.

Speaker 2: I, I agree. I think that that is going to be a focus and an area of innovation. And we're also starting to see a lot of, uh, project financings coming across our desks with respect [00:10:00] to the circular economy. So, uh, what people are trying to do is with respect to indoor farming, or, you know, other aspects of, uh, raising animals, they're trying to, I have zero, um, you know, net output in terms of carbon and, and other excesses. And so they're trying to capture that and use that and avail themselves of some of the ESG initiatives that we're starting to see in the market. So that is also a crossover area.

Speaker 1: Yeah. I was listening to a incubator, [00:10:30] kind of a end of a season showcase yesterday for a company called beyond SKU. And one of the companies on there had products where they, um, they made the finished product and they, and they used, uh, repurposed packaged goods. And then for their second round of packaging, they used the leftover from the first packaging. It's like a pack of food. So as he said, Kelly's continuing to look for, uh, a zero [00:11:00] or as close to zero as possible footprint. I would assume we'll continue to look to the agribusiness sector for those.

Speaker 2: And what I find really interesting is that a lot of lenders are now starting to look at sort of, you know, carbon footprints and ESG initiatives, and they are raising funds. Some of the hedge funds are, or they're looking to build up their portfolio. And so you're starting to see a corporate treasurers and CFOs, uh, you know, take a step back and, you know, look at their processes, [00:11:30] look at their guidelines, trying to develop these, you know, environmental, social governance guidelines to see if they can avail themselves this alternative and at times cheaper financing. And so we're, that market was really a few years ago, more of sort of an abstract white paper sort of situation. You know, the, the green bonds and green financing has grown fourfold over the two years. And you're, you're starting to see that more and more becoming more prevalent, more mainstream. And you're starting to see a lot of press about that as [00:12:00] well. And that is, um, you know, bleeding over into the agribusiness sector as well.

Speaker 1: Well, I'm glad you brought that up. You said over the last two years, I mean, obviously 2020 was a interesting and different year for many, and, um, you know, a very up and down year for many, some sectors, uh, even in the food and beverage sectors, you know, you know, saw huge increases. Obviously if you, have you sold water online or vitamin D zinc, [00:12:30] um, elderberry, you know, anything related to immunity probably had one of the best years you've ever had. Obviously if you were a restaurant, uh, relying on people coming in a very tough year, you mentioned Kevin, the financing, uh, did things slow down at all during 2020? And if it did slow down, has it, has it picked up?

Speaker 2: Sure. So what we saw was sort of an uneven, um, kind of application of, of, um, how, you [00:13:00] know, sort of the financings were, we're kind of working through the cycle. You had some sectors that were, um, very distressed, um, you know, dairy and protein and in some aspects, uh, but you had other sectors, uh, you know, such as sort of the grains and you, other fruits and vegetables that were fine. Um, you know, and they were also ag was considered an essential industry early on in the pandemic. Um, you know, there were some disruptions, um, with respect to outbreaks with, you know, some of the factories, but for the most part, uh, the industry [00:13:30] as a whole weathered, um, the pandemic fairly well, um, there was stimulus money available, which also, you know, helped kind of smooth things out. We are starting to see, um, you know, more distressed with the supply chains. Um, I think people are hoping for another round of stimulus, but while there were certain sectors that were distressed industry as a whole, uh, you know, remained pretty healthy,

Speaker 1: Well, that's good news for everyone before we get into talking about what, what we see for 2021, [00:14:00] let me ask you this. Um, so I'm in the agribusiness business to be,

uh, repetitive w I mean, what, what would be the types of things that I would hire an attorney that Greenberg Traurig, hopefully, or other places, you know, to assist me? What other types of things you said, you know, you do a lot in the financing area, but what other types of things do you know, attorneys in the agribusiness [00:14:30] sector do?

Speaker 2: Sure. So, you know, our, um, our team, we have a broad, a broad base, um, and we are located all over the globe, so we can, you know, help producers, lenders, and a whole array of clients. And we can work with you on, you know, considering a merger or an acquisition, um, you know, on the diligence, some of the ag specific issues related to that there are compliance issues. There are regulatory issues. There can be litigation, unfortunately, that can happen from time to time. [00:15:00] You can either be, um, you know, either a plaintiff or, or, um, or a defendant, you know, so we, we, we tend to run there's the financing aspects, which we've discussed. So we, we can run through, you know, sort of the transactional litigation regulatory needs there's IP. So it's kind of the whole spectrum of representation that we can provide. And it's all because agribusiness is a unique industry. There are a lot of specific rules that apply and guidelines, and we're aware of that. And we also have, [00:15:30] you know, a good working relationship with regulators, um, to help you navigate some of those problems.

Speaker 1: Yeah. I mean, I know that we've, we've done some different things, uh, together in particular. I recall you working on some seed agreements for clients and you wouldn't normally think necessarily that that would be something, uh, you know, that would come up, but for a regular finished package, good company that, you know, might be using different sorts [00:16:00] of ingredients, you know, an agreement with a seed supplier might, might be something that's necessary.

Speaker 2: That that's correct. I mean, it's, you know, if you think about it and you're in the agribusiness, where are you kind of in the supply chain? Um, how, you know, if you're considering, um, if you're a producer, how are you bringing your product to market? Are you selling to a co-op? Are you negotiating, uh, you know, financing with your lender? Do you have proprietary, um, um, intellectual properties, such as, you know, proprietary, um, farming techniques, um, [00:16:30] are you interested in smart technology and thinking about those contracts? So there's, there's all sorts of aspects to this, you know, are you, uh, an input provider? Are you selling fertilizer so we can help you navigate, um, some of the legal considerations as part of your business, because that's what we do. Yeah.

Speaker 1: There's some really exciting things, you know, I know, um, one of our calls and we have monthly calls to talk about things we have, you know, uh, a patent attorney who was working on [00:17:00] when he, he does some really neat things going from, you know, of course, uh, the 3d printing technology of printing out things to, I, he, I believe he was talking about, um, drones and drones was something to do with drones and crop supervision, whether it was either supervision or even, uh, potential, you know, monitoring crops, uh, with drones, um, seemed like, uh, you know, uh, I also just watched [00:17:30] Terminator two with my son, and maybe that's a sad sign that we're going down the pathway of Skynet taking over the world. But, um, but th those types of

things are always a really interesting, it seems like the agribusiness sector, you know, is a, is a prime area for some of those new innovations.

Speaker 2: And that, that is correct. I mean, I am astounded by smart technology, you know, um, I was, I saw a presentation a few months ago where they said that, um, the, the technology is evolving to the point where a farmer can pinpoint, [00:18:00] um, in the field, you know, exactly what, you know, acreage is the most efficient to produce a certain type of crop. Um, so it's becoming very sophisticated, you know, and if you're, if you're looking to expand your business, we have, uh, relationships with lenders, a lot of, you know, agribusiness lenders, but as well as funds that are opening up specific portfolios, I'm looking to invest in various initiatives. Um, as you know, as we talked about earlier, Justin, you know, there are a lot of ESG initiatives, so there are funds that are looking to invest in some [00:18:30] of those projects. And so there, there is just a lot of growth and there's going to be a lot of innovation in the sector going forward.

Speaker 1: And for the people who don't talk about it as much everyday, tell us what ESG is. So,

Speaker 2: You know, ESG is really environmental, social governance, and it's when you're saying, um, when, you know, environmental, social and corporate governance, um, these are sort of three central factors in measuring a sustainability and societal impact of the investment in a company or a [00:19:00] business. And so when a lot of people are, you know, you're starting to hear, you know, ESG people are putting policies together to, you know, sort of comply with these tenants. And then, uh, they are now able to avail themselves of, you know, special financings from, um, some of these banks and hedge funds that want to promote, um, ESG goals. And so that's why some of the corporate treasurers and CFOs are looking into their, you know, trying to either, um, draft policies [00:19:30] or refine them so that they can, uh, submit, uh, financings to essentially avail themselves of possibly cheaper product.

Speaker 1: Got it. All right. Thank you. Well, before we kind of close out with kind of where we see things headed in 2021 in the future, I know you've also been really actively involved in some women's initiatives, both in the agribusiness sector, but, but also outside. Um, can you tell us a little bit about what you've been doing with [00:20:00] the flows?

Speaker 2: Sure. So I am a member of the advisory board for women in agribusiness. Um, and we are, uh, going to have our 10th anniversary this year in terms of our, our global conference. Uh, last year was virtual. Um, and this year we're hoping there'll be in the fall. We're hoping that, you know, we'll be, uh, an in-person gathering. Um, and it usually draws up to a thousand women in the industry at all, all levels. You have, um, you know, students attend as well as C-suite executives. Um, it provides [00:20:30] a networking opportunity, but also a way to showcase and develop expertise, uh, as a conference. And then there's also events throughout the year that are supported by women in agribusiness. So that that's part of, uh, my work with women in ag, you know, in the industry. And then I'm also, um, just generally involved with the national association of women lawyers at the firm is very committed to as well.

- Speaker 1: Well, thanks. Thanks for your work in that. I know the firm and everyone here appreciates all of those efforts [00:21:00] as we look at 2021. And again, kind of, we talked a little bit about 2020. What are some things that you think are going to be on the forefront of, of what people in the agribusiness are looking at here in 2021 and maybe even further off from there?
- Speaker 2: You know, I think that there will be a couple of things. I think that the first will be, um, you know, as, as I mentioned, that some of the supply chains are seizing up. Um, so they are going to be looking for, um, you [00:21:30] know, the stimulus package, if there's a new one and to see how that ultimately looks. Um, secondly, um, you know, in terms of regulation, there has been a lot of deregulation. And so if they're going to be areas of, of, uh, increased regulation and scrutiny, um, I think people are going to be looking at cues from Washington, you know, to, to see, um, how that's going to impact the industry. And then three, just sort of, um, you know, as the vaccines are rolled out in life, you know, kind of returns to normal, um, you know, we will hope to see some of the restaurants [00:22:00] and, and, um, you know, other aspects of the industry, um, regain their footing. And so hopefully that those areas will become more robust and there will be less distressed. So we'll, again, just have to monitor that. And a lot of that will be, you know, sort of driven by, um, developments in Washington, I would think.
- Speaker 1: Great. Well, we hope obviously that everyone sees a big resurgence. I mean, I do believe with it, a new administration, we're [00:22:30] going to see probably some more guidance and regulation in areas since the previous administration obviously was looking to have less interaction from governmental agencies and less guidances and other things like that, you know, certainly for a lot of our clients, I know that regulation of CBD and hemp is at the forefront and certainly part of the agribusiness economy these days, [00:23:00] we've got some exciting news that one of our colleagues has been appointed to the USDA's, uh, tribal relations position. And, uh, I know that there's been a lot of interest from, uh, the tribal nations, uh, regarding CBD and hemp. So I think that's going to be one area in particular that I know a lot of companies are hoping the FDA will find the issue, some more concrete guidance, because it's, uh, you know, depending [00:23:30] on who you ask over a billion dollar industry, that, um, is still very much up in the air. And if you want to hear more about that, you can check out our other podcasts where my father, Jim Prochnow, and I talk about the world of CBD and hemp. So I'm glad we got a chance to hear from, uh, my colleague Arlene today and hear more about our agribusiness practice. Thank you, Arlene, for joining us today.
- Speaker 2: Thank you, Justin. It was my pleasure to join you, and
- Speaker 1: [00:24:00] We hope you found out some good information about agribusiness. If you liked it, please give us some good remarks on whatever streaming service you're using, and we hope you tune in for more episodes of the go food talk and Greenberg Traurig food beverage, and agribusiness group. Thank you.
- Speaker 3: [inaudible].