

# Daily Journal

JANUARY 29, 2014

## Top 20 Twenty Under 40 Forty

To compile this list, *Daily Journal* editors and reporters considered hundreds of lawyers from throughout California. We looked at every major practice type, including corporate transactions, criminal prosecution and intellectual property litigation.

The most important consideration was the

work. How have this lawyer's cases impacted the law, a particular sector of industry or society? That's the first question we ask ourselves in considering each person. We also look at the candidate's impact on the legal community. Is he or she taking a leadership role within the firm, agency or organization? Are they active

in bar groups and public service organizations? As you read through this supplement, we think you'll agree that California's legal talent is some of the best you'll find anywhere in the world.

-The Editors

Top  
20  
Under  
40



**Kenneth K. Lee**

Jenner & Block  
Los Angeles

**Practice Type:** Litigation

**Practice Specialty:** Class actions,  
business litigation

**Age:** 38

Growing public concern over truth in labeling in the food industry is the focus of Lee's practice.

In July, he obtained dismissal of a class-action lawsuit filed against WholeSoy & Co., a soy yogurt company based in California. *Hood v. WholeSoy & Co.*, CV12-5550 (N.D. Cal., filed Oct. 29, 2012).

The suit took issue with the description of a sweetener derived from sugar cane as "evaporated cane juice."

The plaintiff relied on a Food and Drug Administration draft, suggesting that evaporated cane juice isn't the preferred term for that type of sweetener, Lee said.

About three dozen of these cases were filed in the nation last year, he said.

"The plaintiffs have been largely successful in dodging motions to dismiss," he said.

But Lee accomplished this by tapping into the primary jurisdiction doctrine. In this case, that meant convincing the court to let the FDA decide the matter.

"Federal courts have the option to defer cases to a federal agency," Lee said. "It's good to offer several key arguments to the court, even if they're quite different from each other, be-

cause you never know what will gain traction with a particular judge."

The defense of these types of cases is getting stronger, Lee said.

"These are tricky issues, and a lot of courts have decided to let the FDA take a crack at deciding them," he added. "There are so many cases that have been filed and so many inconsistent decisions."

But many courts are recognizing that Congress wants to have consistent standards regarding food labeling, Lee said, and are therefore relying on the primary jurisdiction doctrine to encourage it.

Among his other significant matters, Lee helped defeat class certification on behalf of Kraft Foods, challenging labeling on a variety of its snack products in a lawsuit that has spanned more than three years. *Red v. Kraft*, CV10-01028 (C.D. Cal., filed Feb. 11, 2010).

"If the plaintiffs' lawyers can survive a motion to dismiss and succeed in certifying a class, they are likely in for a lucrative payday, even if the case lacks merit," Lee said. "So, many judges are now trying to smoke out these cases, whether it be by applying common sense or invoking the primary jurisdiction doctrine."

— Pat Broderick