

Publications

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Perkins Coie is pleased to present its fourth annual [Food Litigation Year](#)

[in Review 2019](#), offering a summary of the past year's key litigation outcomes, regulatory developments, and filing data. Using metrics from our proprietary database, developed by our food litigation team in order to track and understand trends in this area, 2019's *Year in Review* again reports an increase in class action litigation, with a record-breaking 173 new lawsuits filed. The upward filing trends in the class action landscape are mirrored in other industries and in the prosecution of related claims: putative class actions against the pet food and dietary supplement industries were on the rise in 2019, as were Proposition 65 warning notices.

While the number of lawsuits challenging allegedly non-functional slack fill declined once again, new theories and claims, notably about particular food flavors, continue to drive new filings. The proliferation of pre-suit notices regarding Proposition 65 means that litigation in this area is likely to see further increases.

For attorneys defending the increasing number of class actions filed against food and beverage companies, 2019 saw a number of important rulings reaffirming the validity of strategies to defend such cases. These include important rulings from the Second and Ninth Circuits reflecting common-sense principles about the expectations of reasonable consumers regarding food labeling. Similarly, in the pet food area, just as courts have done in similar lawsuits against food companies, courts rejected the notion that a "natural" claim on pet food necessarily communicates that the food is completely free of trace pesticides down to the molecular level. Likewise, in the supplement space, courts have reaffirmed the vitality of preemption defenses to complaints challenging allegedly misleading structure/function claims.

Perkins Coie has been a leader in defending food litigation cases, securing favorable, precedent-setting results for its clients. The year 2019 was no different, with several important victories, including dismissals in both *Yu v. Dr Pepper Snapple Group* (N.D. Cal.) and *Doss v. General Mills* (S.D. Fla.), class actions challenging the presence of trace pesticides in food.

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