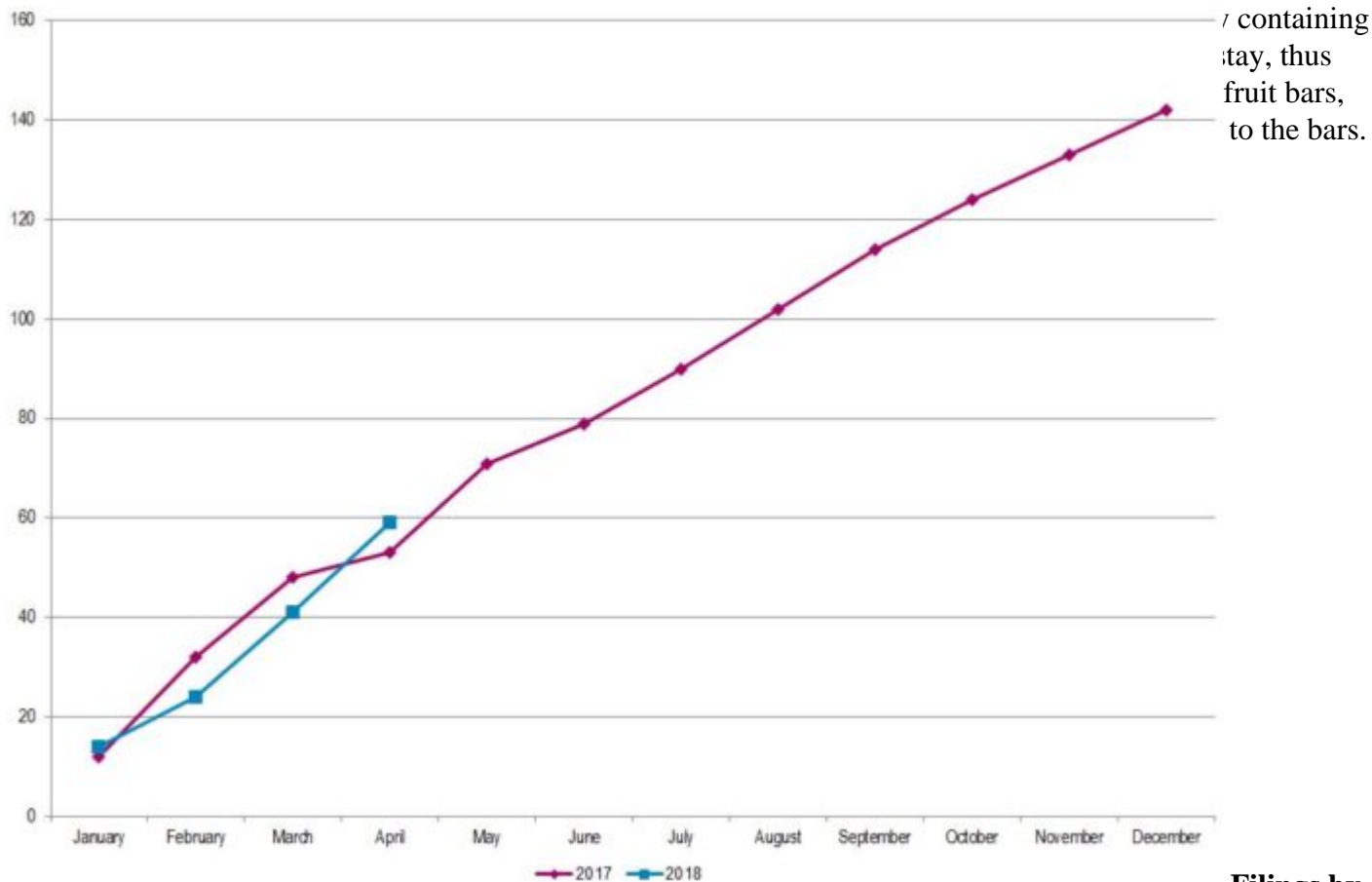


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May 10, 2018

PC Food Litigation Index: April 2018

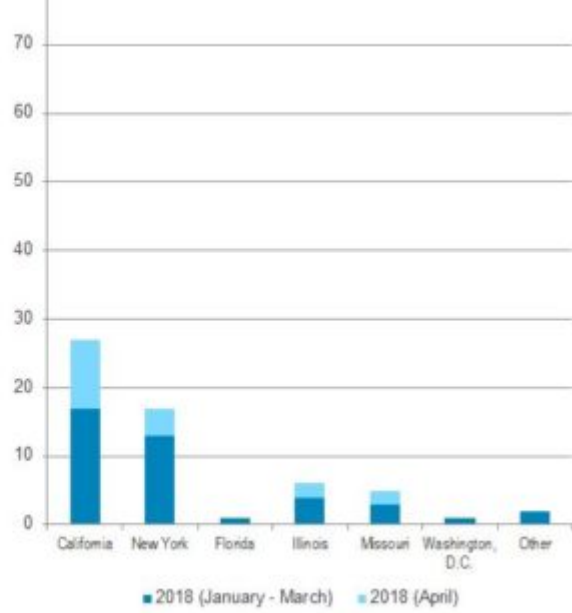
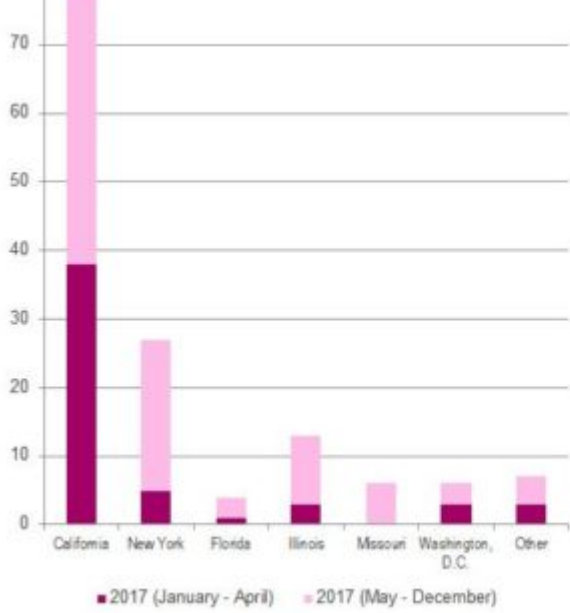
Each month we will be sharing the PC Food Litigation Index, a summary of latest class action filings in the food and beverage industry. This data is compiled by Perkins Coie based on a review of dockets from courts nationwide. In April, "natural" and its opposite, "artificial," continued to be legally-contested territory in the food world. Malic acid has become a frequent target of plaintiffs' lawyers who argue that because the ingredient can be in some instances deemed a manufactured flavoring agent, food products that contain it cannot fairly be labeled "no artificial flavors" Malic acid occurs naturally in many fruits but also can be manufactured through chemical reactions. Plaintiffs likewise continue to challenge "all natural" and "no artificial ingredients" labels on food products that contain xanthan gum, used in a wide range of foods as a thickening and stabilizing agent. Like malic acid, xanthan gum is an extraordinarily common, FDA-approved ingredient that has been in use for decades. Despite hints from FDA Commissioner Scott Gottlieb that Agency guidance on the enduring "all natural" question is forthcoming, the Court opted to lift the stay of *Tran v. Sioux Honey Association*. The Court had previously stayed the action, awaiting "the outcome of FDA's rule-making process regarding the permissible uses of the term natural in food labeling." Responding to a direct request from the Court in a letter dated April



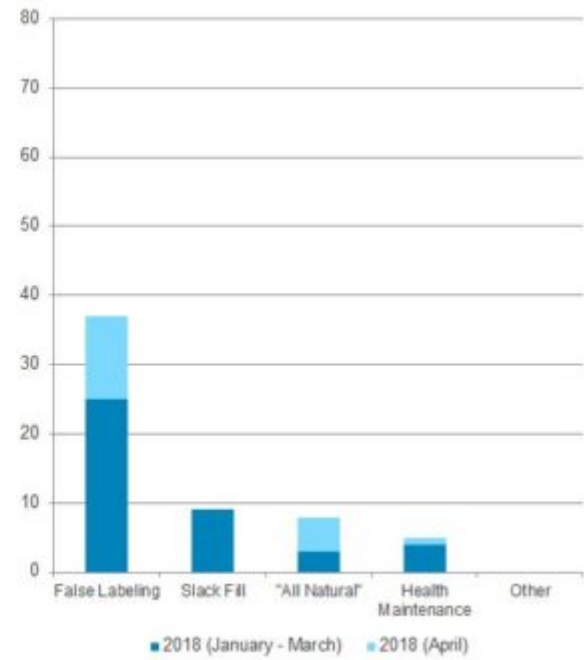
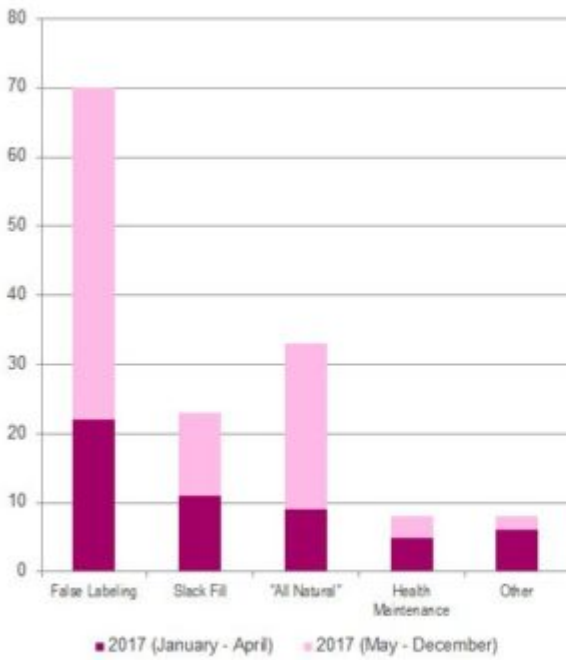
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