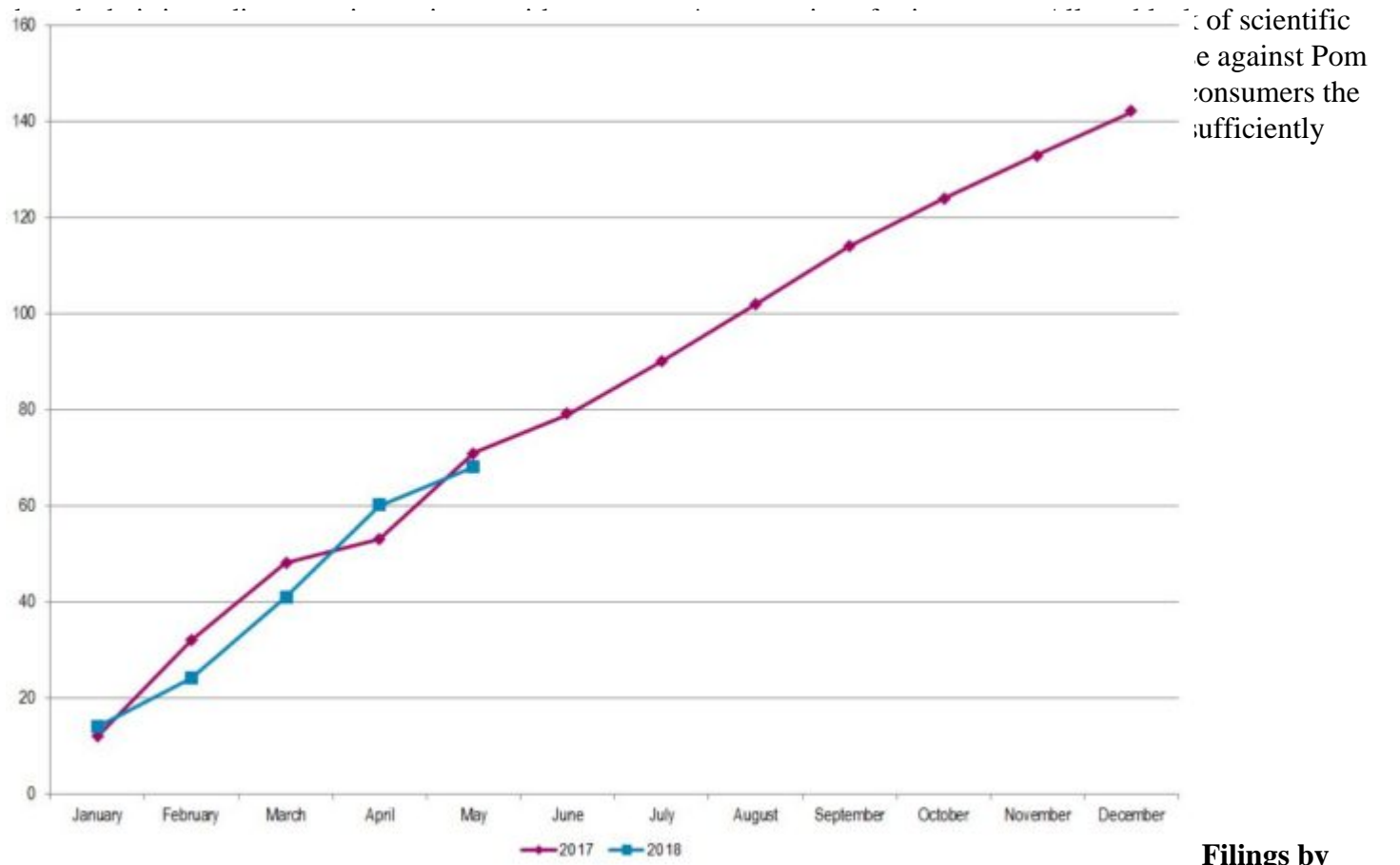


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June 07, 2018

PC Food Litigation Index: May 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. Through May the pace of consumer class action filings against food companies continued unabated, tracking last years filing rate leading to nearly 150 new cases annually. The mix of cases continued to duplicate last years, with some notable case filings discussed below. The plaintiffs' bar continued to mount challenges to the "all natural" labels on products that contain xanthan gum, the widely-used, FDA-approved binding and thickening agent commonly found in salad dressings, ice creams, and hosts of other popular foods. In [Burton v. Cedarlane Natural Foods](#), the plaintiff alleged that the defendant's use of the ingredient makes the "All Natural" labels on, for example, its enchiladas and omelets false and deceptive. In another similar xanthan gum action this month, the plaintiff objected to labeling pasta dishes such as stuffed shells and lasagna as "all natural" when they contain the ingredient. The labeling representations of frozen dessert products were at the center of two cases this month, the first against Eden Creamery's Halo Top brand, the second against Breyers. The plaintiff in the former argues that Halo Top's branding evokes the color yellow, which is associated with butter and cream and therefore causes consumers to think of ice cream. Because Halo Top products are actually "light ice cream," a distinct product category, the plaintiff argues that the labels are misleading. Somewhat similarly, the Breyers plaintiff alleges that the defendant's Breyers Delights products are misleading labeled as "ice cream," even

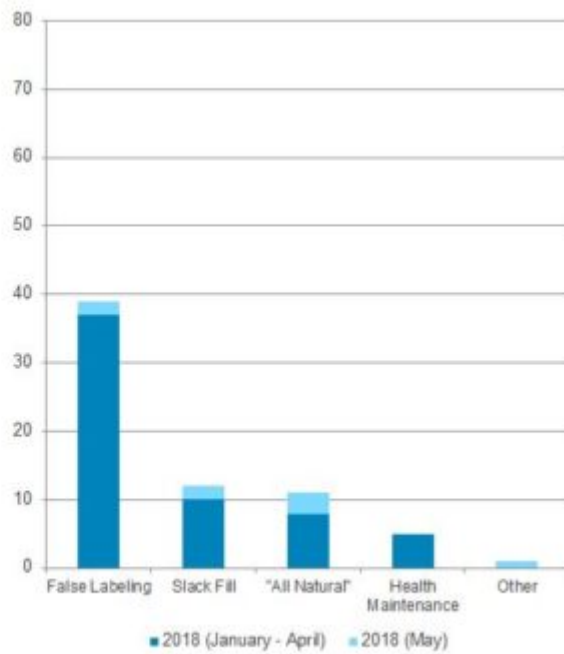
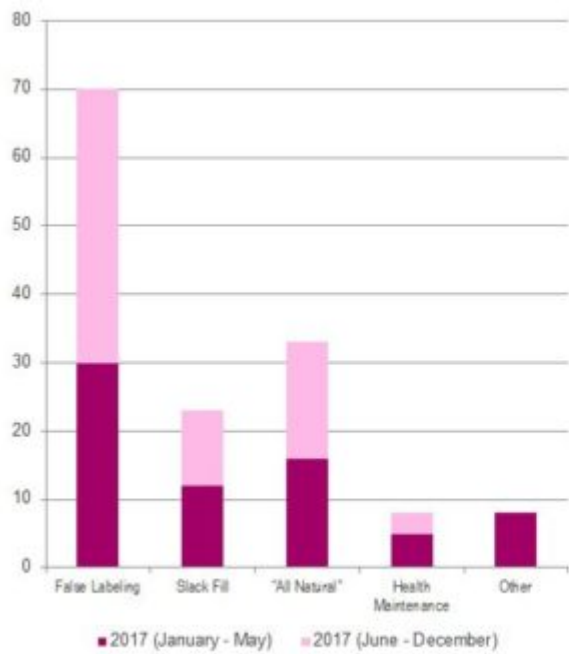


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