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### Food & Consumer Packaged Goods Litigation Year in Review 2024



Perkins Coie Releases Ninth Annual Food & Consumer Packaged Goods Litigation Year in Review.

In 2024, class action filings against the consumer packaged goods (CPG) industry reached a near high, with close to three hundred lawsuits filed. This year was notable for the wide variety of kind of claims at issue — natural, protein content, multi-function ingredients, packaging fill, and sustainability claims. The combination of the pace and breadth of theories suggests that these current trends will not abate soon.

Once again, litigation activity remained vigorous around microcontaminants in the form of purportedly harmful trace substances—including heavy metals, phthalates, and polyfluoroalkyl substances (PFAS). Because these filings have spread to courts nationwide, 2024 saw some uncertainty come into this area of the law with different courts coming to differing conclusions as to whether and when it is actionable to misleadingly “omit” from the label the potential presence of these trace substances.

As in years past, in 2024, the “reasonable consumer” defense remained a key weapon in defendants’ arsenal, with encouraging developments in this area of the law. The Second Circuit explained that when a challenged claim is merely ambiguous, then resort to the full label — and its clarifying effect — is appropriate. Meanwhile, the Ninth Circuit helpfully explained that the use of asterisks on challenged claim, when linked to additional explanatory information, helps guard against potential liability under the “reasonable consumer” standard.

The regulatory arena also remained active in 2024. The U.S. Food and Drug Administration (FDA) issued numerous advisory updates on food traceability, food imports, dietary supplements, food additives, and PFAS. Perkins Coie expanded its regulatory capabilities in 2024 and is actively monitoring these and other developments in coordination with our litigation team to help ensure that today’s regulatory guidance does not turn into tomorrow’s threatened class action.

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