

Perkins Coie's 2019 Food Litigation Report Shows Class Actions Jumped to Record Level

SEATTLE (February 26, 2020) - Perkins Coie has released its 2019 Food Litigation Year in Review [report](#), which shows a jump in class action litigation to a record-breaking 173 new lawsuits. The 2019 report also shows an upward trend in class action complaints focused on the dietary supplement and pet food sectors.

Proposition 65 warning notices to food and beverage companies likewise remained at substantial levels in 2019, with nearly 500 pre-litigation notices served.

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 decisions from the U.S. Court of Appeals for the Second Circuit and U.S. Court of Appeals for the Ninth Circuit reflecting common-sense principles about the expectations of reasonable consumers regarding food labeling.

"The good news this year, is that courts are continuing to recognize that they can dispose of cases very early on the straightforward grounds that a reasonable consumer simply would not be deceived by the allegedly deceptive practices," said Partner David Biderman, chair of Perkins Coie's Consumer Litigation practice. "This is an important tool for manufacturers defending these cases and a healthy and reassuring injection of a dose of reality into the food litigation jurisprudence."

Similarly, rulings in the pet food area mirrored recent opinions in lawsuits against food companies, with courts rejecting 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.

"Courts are consistently holding that consumers aren't deceived or harmed when they purchase a product that may have infinitesimal amounts—usually measuring in the billionths, at levels far below what federal agencies permit—of trace pesticides used during the agricultural process. Judges are quickly closing the courthouse door to these cases," said Partner Charles C. Sipos, co-chair of Perkins Coie's Food Litigation practice.

Likewise, in the supplement space, courts have reaffirmed the vitality of preemption defenses to complaints challenging allegedly misleading structure/function claims.

Perkins Coie's fourth annual Food Litigation Year in Review report analyzes significant court rulings, the trends driving lawsuit filings, and notable legal developments impacting the U.S. food and beverage industry. The 2019 report includes two new sections: Legal Trends in Pet Food and Legal Trends in Supplements.

Perkins Coie's *Food Litigation News* [blog](#) provides regular updates and insights on litigation activity in the food and beverage industry.

Perkins Coie has worked with major food and beverage manufacturers and distributors, as well as their supply chain, since the beginning of the food activist movement. Attorneys have advised clients on product recalls and product liability exposure and served as national coordinating defense counsel in complex nationwide class actions. Perkins Coie's work has led to numerous recognitions, including being consistently ranked in Band 1 for Retail by [Chambers USA](#).

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Media Inquiries: Please email [Justin Cole](#), Head of Media Relations.

Contact



David T. Biderman

Partner

DBiderman@perkinscoie.com [310.788.3220](tel:310.788.3220)



Charles C. Sipos

Partner

CSipos@perkinscoie.com [206.359.3983](tel:206.359.3983)



Thomas (Tommy) Tobin

Counsel

TTobin@perkinscoie.com [206.359.3157](tel:206.359.3157)



Julie L. Hussey

Partner

JHussey@perkinscoie.com [858.720.5750](tel:858.720.5750)



Carrie Akinaka

Counsel

CAkinaka@perkinscoie.com [206.359.6534](tel:206.359.6534)



Jasmine Wetherell

Partner

JWetherell@perkinscoie.com [310.788.3294](tel:310.788.3294)

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