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August 03, 2020

Awaiting FDA Rulemaking, Courts Are Pressing Pause on CBD Class Actions

The cannabidiol (CBD) industry has seen a new wave of consumer class actions. The industry is poised to see further cases, especially as the market for CBD-containing products grows. At the same time, federal courts are increasingly placing these class actions on pause, staying them to allow the U.S. Food and Drug Administration (FDA) to issue rulemaking to clarify uniform, national standards for CBD product labeling. Already, three class actions have been stayed pending forthcoming agency action.

Background

CBD consumer litigation is on the rise following a November uptick in warning letters to companies for health-related claims. These consumer suits try to take advantage of these letters and challenge a number of claims, some of which are the subject of the letters and others are new. One set of these cases asserts that the amount of CBD on the label fails to match the product's composition. Other class actions allege that CBD, especially in food and beverage products, is illegal to sell—regardless of any claim.

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