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Food & Consumer Packaged Goods Litigation

Industry Insights: When will the FDA define ‘natural’? Sooner than you might think...

In November 2015, the FDA announced that it was opening regulatory proceedings to define the term "natural" for food and beverage labeling. Ever since then, courts have stayed cases raising "natural" claims under the primary jurisdiction doctrine, appropriately deferring to the FDA's deliberative process. Recently, however, plaintiffs' counsel have filed new "natural" suits, or sought to reopen previously stayed "natural" cases, apparently impatient over the duration of the FDA's rulemaking. The notion, implicit in these new filings, that class action lawsuits should take precedence over FDA rulemaking is wrong-headed: Courts have long held that class actions are not an appropriate tool to set national policy, the FDA has expertise in food labeling that courts lack, and recent statements by the FDA Commissioner suggests the FDA is poised to act on "natural." [Read the full article here.](#)

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