

Advertising Class Action Trends in 2021

Proskauer on Advertising Law Blog on May 2, 2022

2021 saw well over 500 new class actions in the advertising space. With the number of these cases increasing, it is more important than ever for businesses to stay on top of the latest trends, including the types of products and claims that are being targeted. Our full report, available [here](#), goes into detail on these points and others. This post summarizes some of the key takeaways.

Food & Beverage

As in past years, the Food & Beverage industry remained a main target of the plaintiffs' bar in 2021. Ingredient claims remained the main focus. While 2020 was the year of ["vanilla" litigations](#), the plaintiffs' bar branched out to other flavors in 2021, including "chocolate," "smoked," "fudge," "strawberry," and "honey."

Other class action trends in this industry in 2021 include:

- "Natural" and "no artificial flavors" cases – particularly with respect to products containing malic acid, citric acid, ascorbic acid, xylitol, and maltodextrin;
- Cases against coffee product manufacturers, alleging that they falsely advertise the number of servings in their products;
- Place of origin claims, alleging advertisers deceptively market where their product is made; and
- Environmental and animal welfare claims, alleging that advertisers misrepresent the [sustainability or living conditions](#) of the source of their food products, or that they deceptively market their packaging as recyclable.

Consumer Packaged Goods

The Consumer Packaged Goods industry (including personal care, household cleaning, cosmetics, pet, baby, and other consumer products) faced over 250 advertising class actions in 2021. These included:

- Class actions challenging safety claims and alleging a failure to disclose alleged health risks;
- Cases against manufacturers of sanitizing products, challenging allegedly deceptive claims that the products kill a certain percentage of germs; and
- Cases involving “natural” claims.

Drugs & Supplements

Although the pandemic continued to rage on in 2021, the focus of advertising class actions involving drugs & supplements shifted largely away from immune and COVID-19-related claims this year. Instead, homeopathic products came under fire. Proskauer successfully represented the defendant in one such case – *Yamasaki v. Zicam*, 2021 U.S. Dist. LEXIS 150394 (N.D. Cal. Oct. 25, 2021). Plaintiff challenged Zicam’s claims that its cold remedy products are “clinically proven” to shorten colds. In granting Zicam’s motion to dismiss, the court found that none of plaintiff’s allegations supported a reasonable inference that this claim is false.

Other trends in drug & supplement advertising class actions included:

- “Natural” cases; and
- Claims regarding a product’s ability to improve mental acuity or mental health.

Our full report provides further analysis on the above trends, and much more, including insights into the biggest names in the plaintiffs’ bar, analyses of 2021 trends in advertising class action resolutions and settlements, and litigation trends in other industries.

Download our full report at the following [link](#).

[View Original](#)

Related Professionals

- **Baldassare Vinti**
Partner
- **Jeff H. Warshafsky**
Partner
- **Jennifer Yang**

Partner