



Class Action 'Avalanche' Coming For CBD Industry

Law360 (October 30, 2019, 7:05 PM EDT) - The first few class actions against CBD companies have

"Class Action 'Avalanche' Coming For **CBD Industry**"

"Someone files one, and then It's, "Jump on the bandwagon," said Sean Hack, co-chair of Pashman Stein Walder Hayden PC's Itigation practice.

With the dramatic expansion of the cannable industry, many felt it was only a matter of time before the consumer class actions began. That's especially true given the lack of federal standards for these products.

The FDA has yet to issue regulations on connable products, including CBD, which is a nonpsychoactive chemical that is widely marketed for its purported anti-ensisty or calming properties. It is the active ingredient in Epidiolex, a pharmaceutical drug used to prevent seizures.

Under the Federal Food, Drug and Cosmetic Act, the fact that CBD is an active ingredient in an approved pharmaceutical drug means it can't be considered a dietary supplement or food. So the FDA's stance is Biasy that it doesn't need to issue regulations on CBD products, according to Havens

Regardess, there are tons of CBD-infused vapes, edibles, lations and more on the market. The FDA has sent warning letters to companies selling CBD products about making unsupported health claims, but that's the extent of the agency's enforcement so far.

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country's first products liability class action hit the marijuana industry with ting of various

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sximately 60,000 of those quarantined belonged to LivWell. The department's investigat ever, showed that the plants tested within positicides limits that are acceptable for vegetation and told was released. However, what is acceptable for vegetation, according to the complaint filed not LiviWell, is not acceptable for tobacco or plants that are likely inhaled through heating and

a cannabis users may by and argue that cannabis products should be considered in conjunction totacco products and try to draw similarities in order to benefit from the heavily-regulated cco industry, the industries in fact are not one in the same. With the height of tobacco litigation years behind us, it may be easy to forget the extensive nature of the Itigation that industry d and that the Itigation came after decades of little regulation and oversight. The federal mment first acknowledged that tobacco and smoking could cause cancer in the mid-1960s. In 1980s, the tobacco industry faced suits from private plaintiffs, but in the 1990s, the tides shifted actions against tobacco companies were brought by the states' attorney generals. It was also in nid-1990s that tobacco companies began facing more and more backlash regarding rtisement campaigns, notably those targeted at children. Regulating the tobacco industry is an ring process and it continues to evolve and face new challenges, but it is certainly clear that it years to reach where we are today

n the long history of regulation and Stigation in the tobacco industry, it may be unreasonable to I that the cannatis industry will see prolific regulation in the near future. Adding to the difficult

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e mindful that, in addition to the Federal Drug DA), the Federal Trade Commission (FTC) and state take action against alleged false and misleading oducts under long-standing consumer prtotection laws. year, the FTC sent warning letters to three ies that sell oils, tinctures, capsules, gummies and creams ising that it is illegal to advertise that a product can t human disease without competent and reliable scientific

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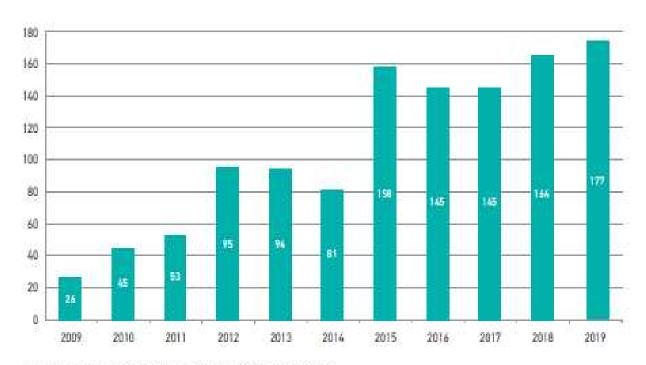
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May 7, 2020

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Food and Beverage Class Action Filings By Year



Data compiled by Perkins Cole based on a review of dockets from courts nationwide.

Source: Food Litigation 2019 Year in Review (Perkins Coie)

Food, Beverage and Supplement Class Actions

- "Impure" products: labeled as "organic," "natural," or "free" of "preservatives" or "synthetic" ingredients, but which allegedly are not so "pure"
- "Contaminated" products: foods with trace amounts of allegedly harmful chemicals stemming from the growth or production process
- "False origin" cases: products marketed as being grown or made in a particular place, but which allegedly are not
- "Slack fill": packaging allegedly suggests more product than the package actually contains
- Over- or Under-Stated ingredients: labeled as "sugar free," "low carb," or containing "x grams of carbs/protein," but actually containing more -or less -- than advertised

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Purthale Madie, Doc. | (1) Mod 19th Greet, Mr Roy | New York, NY (101) | wave locality. Proces: +1 SME RD YOR | Nat. +1 SME RD YOR | contemporare disease. CBD Dosages Don't Match Product Labels, Users Say

Law360 (September 26, 2019, 6:22 PM EDT) - A company that makes CBD candy, vape cartridges and other products is the subject of a proposed class action filed in Massachusetts federal court over claims that its products don't contain the advertised dosages.

The suit, filed Tuesday, claims the Hemp Bombs brand of CBD products are advertised as pure and "high pokers In reality, inc amount or none at all, the pro

Global Widget false and mix challenged in

CBD Dosages The Florida-I through store The suit alleg Don't Match the Magnusor the alleged pr **Product** The company pay restitutio

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The suit says the products don't contain the amounts of CBD advertised, but it doesn't say which products the attorneys tested or what dosages they actually had. An attorney for the class, Jason Leviton of Block & Leviton LLP, declined to comment.

Say

Global Widget did not immediately respond to a request for comment.

The proposed class is represented by Jason Leviton of Block & Leviton LLP, Nick Suclu III and Stephen Cohen of Barbat Mansour & Suciu PLLC, Jonathan Shub and Kevin Laukaitis of Kohn Swift & Graf PC, and Gregory F. Coleman and Rachel Soffin of Greg Coleman Law PC.

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(January 21, 2020, 5:46 PM EST) - Consumers claim a Colorado CBD product company is esenting the quantity of hemp extract contained in its skin creams, according to a putative tion filed in Illinois federal court

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Accused of **Using** Misleading Labels on **Hemp Cream**

lant thus misleads consumers into thinking they purchased a premium product which will greater health benefits because of the represented amount or quantities of hemp extract

yers accuse the company of breach of express warranty, breach of implied warranty of ritability, unjust enrichment and violations of multiple states' consumer fraud laws.

intatives for the parties could not be immediately reached for comment Tuesday.

yers are represented by Gary M. Klinger of Kozonis & Klinger Ltd., Gary E. Mason, J. Hunter fides 129758 print has been carried to

J More CRO Cos. Accused Of Selling Regal Products - LandRE



os. Accused Of Selling Illegal Products

(9, 8:43 PM EST) - Two more CBD companies are facing proposed class say they would not have purchased their proou its if they had known they S. Food and Drug Administration guidelines.

at we 2 More CBD of the Cos. Accused of Selling Illegal FDA to say **Products** in the afe" d FDA ret a r ses of

statement Monday that it intends to vigorously defend itself against the et been served.

at its products are accurately labeled and that the claims are without

) and a representative of the FDA declined to comment Tuesday, and a cas did not immediately respond to a request for comment.

ses are represented by Jonathan Shub and Kavin Laukaitis of Kohn Swift & Barbat Mansour Suclu & Tomina PLLC, and Gregory F. Coleman and Rachel

May 7, 2020

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Class Action Prevention

Responses to Regulators

- You're creating your own (class action) record
- Information is shared
- Words matter

Individual Arbitration Agreements

- Membership programs
- Online Terms of Use

Pre-Suit Demand Letters: Do Not Ignore

Class Action "Cure"

Dispositive Motions

- **Primary Jurisdiction**
- "Reasonable Consumer" Test

Class Certification

- Individualized Materiality/Reliance Issues
- No Injury/Damages

Class Action "Cure" (cont'd)

Trial

Settlement

- Individual (nuisance)
- Class (preclusion)

Alternative Fee Arrangements (AFAs)