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U.S. Supreme Court Holds Compliance with FDCA Does Not Preclude Lanham Act Claim

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On Thursday, June 12, the Supreme Court issued its ruling in *POM Wonderful LLC v. Coca-Cola Co.*, No. 12-761, holding that competitors may bring a Lanham Act claim challenging a product label regulated under the Food, Drug, and Cosmetic Act ("FDCA").

In the case at issue, POM Wonderful, which sells a pomegranate-blueberry juice blend, sued competitor Coca-Cola under Section 43(a) of the Lanham Act alleging that Coca-Cola's "Pomegranate Blueberry" juice blend misleads consumers into believing the product consists predominantly of pomegranate and blueberries when it contains no more than trace amounts of these juices. Coca-Cola argued that the Lanham Act claim was barred because the label complied with FDCA regulations. The district court granted partial summary judgment to Coca-Cola, ruling that the FDCA and its regulations preclude POM's Lanham Act challenges to the name and label of Coca-Cola's product. The Ninth Circuit affirmed.

In a unanimous decision, the Supreme Court reversed the Ninth Circuit's ruling, holding that compliance with the FDCA does not preclude a Lanham Act claim. To start, the Court clarified that this case is not a pre-emption case because it does not raise the question whether state law is pre-empted by federal law. The issue here is whether a cause of action of one federal statute (the Lanham Act) is precluded by the provisions of another federal statute (the FDCA).

In holding the FDCA does not preclude a Lanham Act claim, the Court reasoned that the two statutes complement each other in the federal regulation of misleading food and beverage labels, as each has its own scope and purpose. The Lanham Act protects commercial interests against unfair competition, while the FDCA protects public health and safety. Moreover, the Court explained, the two statutes complement each other with respect to remedies—enforcement of the FDCA is largely committed to the FDA, which may not have the expertise in assessing market dynamics that competitors possess.

In addition, the FDCA expressly pre-empts certain state law claims. The lack of such a provision in the FDCA concerning the Lanham Act further convinced the Court that Congress intended the FDCA and Lanham Act to be complementary.

The Court also noted that the FDA does not preapprove food and beverage labels under its regulations and instead relies on enforcement actions, warning letters and other measures. Accordingly, the Court expressed concern that the preclusion of Lanham Act claims would result in less effective protection in the food and beverage industry than in less regulated industries—a result, the Court reasoned, that Congress likely did not intend.

The Court concluded that "allowing Lanham Act suits takes advantage of synergies among multiple methods of regulation" and is "consistent with the congressional design to enact two different statutes, each with its own mechanisms, to enhance the protection of competitors and consumers."

If you have any questions about the Court's decision or how it may impact your business, please contact one of our trademark attorneys.