

ALERT

Wiley Rein Files *Amicus* Brief in Supreme Court Lanham Act Case

April 11, 2014

Continuing its longstanding leadership in protecting business from overlapping layers of potentially inconsistent regulation, Wiley Rein filed an *amicus* brief in the Supreme Court of the United States supporting dismissal of claims against Coca-Cola in *Pom Wonderful LLC v. The Coca-Cola Company*, No. 12-761 on behalf of the U.S. Chamber of Commerce and the Grocery Manufacturers Association. The brief advocates maintaining the primacy of the U.S. Food & Drug Administration (FDA) in food labeling and restricting collateral attacks on FDA-compliant labels under the Lanham Act.

Tracing the development of federal food-labeling regulation over the last century, the Wiley Rein *amicus* brief demonstrates that Congress entrusted the FDA with responsibility to ensure that America's food supply was safe and that food labeling provided American consumers with the information they needed to make well-advised purchasing decisions. The brief argued that overlaying FDA regulation with private causes of action—either under state law or the Lanham Act—would undermine the exclusive enforcement power Congress entrusted to FDA and threaten producers with conflicting directives, disrupting multi-state distribution and increasing costs ultimately borne by consumers.

As the brief highlights, "[a]voiding such variation is why Congress granted FDA unified food-labeling authority, banned private rights of action to enforce" the Federal Food, Drug, and Cosmetic Act (FDCA), "and expressly preempted states from enforcing any food-labeling requirement not 'identical' to the FDCA and FDA regulations" and "[n]othing in the FDCA's history suggests that Congress intended to [have] national uniformity demolished through the Lanham Act."

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Practice Areas

Food & Drug

Wiley Rein attorneys Bert W. Rein, William S. Consovoy, and Samuel B. Gedge filed the *amicus* brief April 2. The brief is available [here](#).