
US Supreme Court Issues Unanimous Ruling in Favor of WilmerHale Client POM Wonderful

TUESDAY, JUNE 17, 2014

On June 12, 2014, the US Supreme Court ruled unanimously in favor of WilmerHale client POM Wonderful LLC (POM) in an important case involving the intersection of the Lanham Act's prohibition on false advertising and the Federal Food, Drug, and Cosmetic Act's (FDCA) regulation of food and beverage labeling.

The case, *POM Wonderful LLC v. The Coca-Cola Company*, presented the question whether a private party such as POM may bring a false advertising claim under the Lanham Act to challenge a competitor's misleading food or beverage label that is also regulated under the FDCA. Ruling in POM's favor, the Supreme Court held that “[t]here is no statutory text or established interpretive principle to support the contention that the FDCA precludes Lanham Act suits like the one brought by POM in this case.”

At issue in the case was Coca-Cola's Minute Maid Division's naming and labeling of its “Pomegranate Blueberry” juice product. Despite its name, Coca-Cola's “Pomegranate Blueberry” juice contains only trivial amounts of pomegranate (0.3%) and blueberry juice (0.2%). Apple and grape juice account for more than 99% of the product. POM, which also makes and sells pomegranate juice products, sued Coca-Cola under the Lanham Act, alleging that it had lost sales because Coca-Cola's naming, labeling, marketing, and advertising misled consumers to believe that Coca-Cola's product consists primarily of pomegranate and blueberry juices.

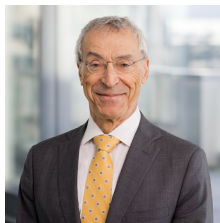
In a unanimous opinion authored by Justice Kennedy, the Supreme Court agreed with POM that neither the FDCA nor the Food and Drug Administration's (FDA) regulations preclude Lanham Act claims. The Court reasoned that “[n]othing in the text, history, or structure of the FDCA or the Lanham Act shows the congressional purpose or design to forbid [Lanham Act] suits” and that, in fact, “the FDCA and the Lanham Act complement each other in the federal regulation of misleading food and beverage labels.” In reaching this conclusion, the Court rejected Coca-Cola's contention that, in enacting and amending the FDCA, Congress intended to displace the Lanham Act's private remedies in the name of “national uniformity.” The Court also rejected the government's intermediate position, which would have precluded POM's Lanham Act claims to the extent the

FDCA or FDA regulations “specifically” authorize the challenged aspects of a label.

POM's victory in the Supreme Court overturns decisions by the Ninth Circuit and district court finding that POM's challenge was precluded by the FDCA and FDA's regulations. POM's victory ensures that the Lanham Act remains available to protect the commercial interests and goodwill of participants in the food industry against unfair competition.

WilmerHale Partner [Seth Waxman](#) argued the case in the Supreme Court on April 21, 2014. Others involved in the case at the Supreme Court include Partner [Felicia Ellsworth](#) and Senior Associate [Rachel Murphy](#).

Authors



Seth P. Waxman

PARTNER

Co-Chair, Appellate and
Supreme Court Litigation
Practice

Co-Chair, Native American Law
Practice

✉ seth.waxman@wilmerhale.com

☎ +1 202 663 6800



Felicia H. Ellsworth

PARTNER

Partner-in-Charge, Boston Office

Vice Chair,
Litigation/Controversy
Department

✉ felicia.ellsworth@wilmerhale.com

☎ +1 617 526 6687