



## Sandra Edwards and Jared Kessler Discuss Consumer Greenwashing Lawsuits with *Bloomberg Law*

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Winston & Strawn partners Sandra Edwards and Jared Kessler were quoted in a recent Bloomberg Law article discussing the surge in consumer greenwashing lawsuits involving microplastics and how scientific research and news reports often lead to class actions. In the first half of 2024, at least eight prospective class action lawsuits have been filed alleging that branding like “all-natural” is misleading if a product may contain microscopic plastic pieces. The lawsuits follow a study from the New England Journal of Medicine that found microplastics lead to a higher risk of heart attacks and strokes, and a University of California San Francisco review of 2,000 scientific studies found that ingesting microplastics could increase risk of cancer.

While the legal focus on microplastics is relatively new, the recent suits follow a pattern similar to other class actions alleging that companies glossed over the potential health impact of their products, said Jared. Negative attention in the news or from regulators often precedes an influx of greenwashing claims, he noted, referring to the practice in which a company portrays itself as more environmentally friendly than it actually is, using labels like “eco-friendly” or “natural.”

“The regulators or the media or the reporting agencies will focus on these substances or these alleged contaminants and take a position that some amount of them might be harmful,” Jared said. “That is what consumers will often latch on to.”

Sandra said the surge of plastic-related suits reminds her of similar litigation around Zantac, a heartburn drug. “There was a news report from some dubious scientist alleging that there was a particular compound in Zantac associated with cancer,” she said. “Later, there were news reports about chemicals and hair straighteners being associated with cancer and lawsuits were filed. It’s a very common pattern we see after research is released.”

Litigation over the greenwashing of a chemical or compound often doesn’t stop with false advertising lawsuits, Sandra explained. Sometimes legal action will evolve into product liability.

“With the Zantac litigation, there were two tracks of lawsuits filed,” she said. “There was a series of class actions alleging that the product didn’t disclose that it allegedly caused cancer, and there were allegations that the product itself was causing cancer.”

Sandra said she's prepared to see lawsuits that allege harm caused by products that contain microplastics. "In a class action, you don't actually have to show that anybody has been physically harmed," she said. "It's a much lower hurdle to cross... But I expect to see microplastics get there eventually."

Jared said he's noticed the substances named in greenwashing lawsuits shift depending on public interest and emerging research. "We've seen other cases in years past where consumers are pointing to the alleged presence in a product or packaging of heavy metals," he said. "Mercury, lead, cadmium, arsenic, BPA, titanium dioxide, benzene... they've all been named in claims on similar theories. It's the continuation of a trend."

[Read the full article.](#)

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