

Amanda Groves Weighs in on Slack Fill Lawsuits

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Amanda Groves, co-chair of Winston & Strawn's [Class Actions Practice](#), was quoted in Food Navigator USA's article titled "[Food Litigation 101: Non-Functional Slack Fill... Are you up to Speed?](#)" published on August 11, 2017. The article discusses the growing trend in [slack fill](#) lawsuits filed against food and beverage manufacturers as well as the gray area of the law as it relates to the code of federal regulations on how much empty space within a package is acceptable and whether its communicated to the consumer.

According to the article, several high-profile slack fill cases have been tossed out by judges in recent months. However, there have been a number of cases that have proceeded beyond the motion to dismiss phase, with judge's ruling that the amount of slack fill that might be reasonable in the packages at issue is a question unsuitable to resolve during early stage litigation.

When discussing private settlements in these cases, Amanda notes that judging by the docket activity, it appears that many cases are being settled privately.

"Dismissals with prejudice after an unsuccessful motion to dismiss are normally a pretty good indicator that there was a private settlement. If a plaintiff's lawyer can file a lawsuit and not have to do too much work, it's worth it," Amanda said.

The article also addresses strategies on how to avoid becoming a target of a slack fill lawsuit. Amanda who is a big fan of transparent containers notes that if it makes sense for your product and if the consumer can see how much is in the package, then you don't have an issue with slack fill. Adding that the [November 2016 guidance](#) issued by the American Herbal Products Association (AHPA) also provides practical advice.

Amanda has successfully represented consumer product companies, national retailers, and lending institutions in complex commercial litigation since 1996. She focuses her practice on consumer class action defense, primarily in cases alleging consumer fraud and false advertising.

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