



## → Abby Meyer

**Partner**

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Abby Meyer is a partner in the Business Trial Practice Group and leads the firm's Food and Beverage team. A seasoned litigator, she specializes in defending against consumer class actions targeting the consumer products, retail, and food industries and in litigating complex civil business disputes. In addition to her work representing clients in litigation, Abby provides advice and counsel to consumer packaged goods companies on various compliance issues including FTC compliance and unique marketing issues presented under California state law.

### **Areas of Practice**

#### **Consumer Class Action Defense & Related Advice Work**

Abby specializes in defending companies against consumer class actions targeting product information found on the labels of packaged goods or associated advertising materials. For instance, she has defended claims such as "natural," "vanilla," "Made in USA," "flushable," and sustainability claims. She has also defended against alleged slack fill, underfill, contamination (heavy metals, PFAS), and health halo class actions.

She has successfully resolved disputes at the demand letter phase, opposed motions for class certification, and brought motions for summary judgment of the purported plaintiffs' claims. Abby's clients have included food, beverage, cosmetics, and retail/consumer goods brands and services.

Based on her experience litigating numerous of these actions and her authorship on related topics, Abby also advises companies on whether their product labels are compliant with FDA regulations and other law (such as the FTC Green Guides and parallel state laws). Her goal is to help clients avoid litigation in the first instance.

#### **Complex Civil Litigation**

Abby has long represented companies facing business disputes, such as in the vendor/supplier, licensor/licensee, and reseller contexts. She also represents companies in real estate related litigation and breach of contract actions. In the complex civil litigation arena, Abby both brings and defends actions on behalf of her clients.

Abby looks to partner with her clients to understand their business, their goals, and to align litigation strategy accordingly. Her goal is to give legal advice that also helps her clients achieve their business objectives.

Abby handles all aspects of litigation, from early resolution, to case filing, to trial, and appellate practice. She handles cases in both state and federal court, and also in the arbitration context. Abby has defended against multi-party, multi-year, and multi-jurisdiction litigation.

In addition to her legal practice, Abby is an advocate for women and parents. She co-chairs the firm's OC Families group which serves as a resource for the parents in the Orange County office. She previously served as co-chair of the Orange County Bar Association's Mommy Esquire committee and served for several years as a director of the board for the Orange County Women Lawyers Association.

## Honors

Ones to Watch – Construction Law, *Best Lawyers*, 2021-2025

Southern California Rising Star, *Super Lawyers*, 2020-2023

## Experience

- Substantially prevailed on a motion to dismiss a class action complaint that asserted 25 claims for relief including under the laws of 9 states; court dismissed 17 claims including purported violations of 7 different states' laws. (*Miller v. NextGen Healthcare, Inc.*, 2024 U.S. Dist. LEXIS 131254 (N.D. Ga. July 25, 2024).)
- Defeated putative class action alleging that the company misrepresented or omitted information regarding PFAS in clothing products on a motion to dismiss. (*Garland v. Child's Place, Inc.*, 2024 U.S. Dist. LEXIS 59395 (N.D. Ill. Apr. 1, 2024).)
- Representing a technology retailer with a false pricing class action.
- Representing a services company with a false advertising class action.
- Represented a beverage manufacturer during a three-day bench trial on whether consumption of the beverage exposed consumers to a Prop 65 chemical. The judge found that the plaintiffs did not establish a prima facie case of exposure.
- Represented beverage retailer in false advertising class action. Prevailed on motion for summary judgment.
- Represented specialty foods manufacturer in false advertising class action. Prevailed on motion to dismiss.
- Following scorched-earth litigation related to an easement and involving seven parties, drafted, argued, and won summary adjudication of all claims against our client, ending our client's involvement in the matter; argued and affirmed on appeal (*Rickley v. Gulf Oil Corp.*, 2021 Cal. App. Unpub. LEXIS 1307).
- Obtained a complete defense verdict for a financial institute following a downtown Los Angeles jury trial in a wrongful foreclosure action.

## Articles

- Ensuring Cooperation Doesn't Cross the Antitrust Line  
*Food Manufacturing*, 03.05.2024
- 5 Trends That Will Affect Food Litigation In 2024  
*Law360*, 01.02.2024
- What You Should Know About the Choice Between Remote or In-Person Litigation  
*OC Lawyer*, 10.2023

- Substantiating 'Green' Marketing Claims  
*Food Manufacturing*, 04.02.2023
- Sow What Now? Part 2: CDFA Finalizes Animal Confinement Regulations Amid a Hamful of Legal Challenges  
*Food Manufacturing*, 01.04.2023
- PFAS and food packaging: Regulatory changes create ripple effects for PFAs-related litigation  
*Food Navigator-USA.com*, 11.14.2022
- What California's Farm Animal Confinement Law Means For Your Business  
*Food Manufacturing*, 11.29.2021
- The Future of Food? CRISPR-Edited Agriculture  
*Food and Drug Law Institute*, Winter 2021
- GUEST ARTICLE: Made in America... A guide to avoiding legal hot water with origin claims  
*Food Navigator USA*, 08.02.2021
- Trade secrets...How do you protect recipes and product formulations?  
*Food Navigator*, 07.07.2021
- 9th Circ. Clarifies What Consumers Must Read On Labels  
*Law360*, 01.21.2021
- The Scoop on All that Vanilla Flavor Litigation  
*Food Navigator*, 01.13.2021
- No Reason to Blush  
*Happi*, 08.03.2020
- FDA In Review – Highlights for Food and Other FDA-Regulated Companies  
*Association of National Advertisers*, 11.2019

## **Class Action Defense Strategy Blog Posts**

- "Ninth Circuit Issues Long-Awaited Montera Decision Applying New York General Business Law §§ 349 and 350, Confirming "Per Violation" Damages but Striking Prejudgment Interest," August 15, 2024
- "What Must the Consumer Read on Product Packaging? The Answer is Anything but Black-and-White Following the Ninth Circuit's Whiteside Decision," July 24, 2024
- "The Ninth Circuit Declares that Ambiguity can be Cured with Back Label," July 13, 2023
- "FDA Boosts Protein Preemption Defense," February 16, 2022
- "Are Flavor Cases Fizzling? Two More Courts Grant Motions to Dismiss," November 15, 2021
- "It's Not Pop Secret, Ninth Circuit Affirms that Plaintiff Didn't Have a Leg to Stand On," December 10, 2020
- "Avoiding Formation Challenges To Your Arbitration Clause With Consumers," July 20, 2020
- "Questions To Ask When Changing Your Arbitration Clause," June 29, 2020
- "An Arbitration Clause Health Check," June 22, 2020
- "'Happy Cows' False Labeling Theory is Just 'Half Baked': Court Dismisses False Advertising Claims Against Ben & Jerry's," May 12, 2020
- "CBD Industry Beware: The False Labeling Class Action Has Arrived," September 30, 2019
- "Spate of Recent False Advertising Class Actions Take On Animal Treatment Label Claims," August 19, 2019

- "Lack of Standing Dooms Organizational Plaintiffs' False Advertising Claims; Such a Challenge Can Be Brought at Any Time," August 5, 2019
- "Ninth Circuit Confirms Plaintiffs Are Not Required to Undermine Defendant's Evidence to Withstand Summary Judgment in False Labeling Class Actions," January 14, 2019
- "'I'll Be Back;' Ninth Circuit Gives Arnold Schwarzenegger-Branded Supplement Purchasers Another Shot to Pursue UCL, FAL, CLRA and Warranty Claims," October 18, 2018
- "Are credits coupons? The Ninth Circuit Says Yes in Calculating Total Value of Class Action Settlements," October 17, 2018
- "Ninth Circuit Confirms that Class Action Plaintiffs Must Plausibly Establish Future Intent To Re-Purchase To Maintain Claims for Injunctive Relief," June 26, 2018
- "Seventh Circuit Holds Footlong Settlement Falls Short," September 20, 2017

## FDA Law Blog Posts

- "FDA Moves to End Use of Brominated Vegetable Oil in Food," November 9, 2023
- "'Dietary Guidance Statements' in Food Labeling: What You Need to Know About FDA's Latest Draft Guidance for the Food Industry," April 11, 2023
- "Comment Period for 'Healthy' Regulations Extended; But Consumer Class Actions Targeting 'Health Halos' May Continue," December 20, 2022

## Healthcare Law Blog Posts

- "HIMSS19 Kicks-Off Addressing Leading Topics in Healthcare Information Technology," February 13, 2019

## Real Estate, Land Use & Environmental Law Blog Posts

- "PFAS and Food Packaging: Regulatory Changes Create Ripple Effects for PFAS-Related Litigation," November 16, 2022

## Retail Law Blog Posts

- "New California Bill Seeks to Eliminate Certain Food Additives," April 11, 2023
- "California's Toxic-Free Cosmetics Act Bans 24 Ingredients From Cosmetic Products," March 21, 2023
- "Sow What Now?: Cal. Hispanic Chambers of Commerce et. al. v. Ross et. al., The U.S. Supreme Court, and California's Proposition 12," April 18, 2022

## Media Mentions

Kids' Clothier Didn't Deceive By Silence on PFAS, Judge Says  
*Law360*, 04.02.2024

The Children's Place Dodges Lawsuit Over "Forever Chemicals" in School Uniforms  
*Reuters*, 04.02.2024

Is it actually illegal to sell an item labeled, "Not for retail sale"?  
*Marketplace.org*, 01.27.2023

Food & Beverage Cases To Watch In 2023

*Law360*, 01.02.2023

What California's Farm Animal Confinement Law Means For Your Business

*Food Manufacturing*, 11.29.2021

Law360's Weekly Verdict: Legal Lions & Lambs

*Law360*, 01.12.2018

Starbucks Wins Toss Of Underfilled Latte Class Action

*Law360*, 01.05.2018

## Speaking Engagements

- Speaker, "Tactical Tools for Class Action Prevention: How Proper Claims Substantiation and Sound Labeling Practices Are Sometimes Your Best Offense," ACI's Advanced Forum on Defending FDA-Regulated Consumer Products Class Actions, October 16, 2023
- Speaker, "A 'Healthy' Discussion on FDA Guidances and Health-Halo Litigation," Food Advertising, Labeling, and Litigation Conference, September 27, 2023
- Speaker, "PM Plenary: Nutrition," American Intellectual Property Law Association, February 2, 2023
- Speaker, "Class Action Developments in Flavors, Geographic Origin Claims, and More," Food Advertising, Labeling, and Litigation Conference: For the Food and Dietary Supplement Industries, September 28, 2021
- Speaker, "The Evolving Reasonable Consumer Standard, Developments in Preemption, and Other Litigation Trends," Food Advertising, Labeling, and Litigation Conference, September 22, 2020
- Speaker, "Plastic and Single-Use Legislation and Litigation," 10th Annual Food, Beverage, and Supplements Virtual Regional CLE Program, May 25, 2021

## Events

Food Advertising, Labeling, and Litigation Conference

Environmentally Friendly? FTC Green Guides, Recycling Laws, and Greenwashing Litigation

09.25.2024

33rd Annual International Conference on Soil, Water, Energy, and Air

Liabilities Surrounding PFAS In Consumer Products

San Diego, CA, 03.19.2024

Class Action Threats in 2023 And Beyond - A Webinar Series

Webinar Series, 2023

Diligencing Your Supply Chain: Key Considerations for Food Service & CPG Companies

Zoom Webinar, 10.12.2023

Careful What You Say: The Latest in False Advertising Litigation

Class Action Threats in 2023 and Beyond - A Webinar Series

Webinar, 07.25.2023

3rd Annual Ad Law Symposium  
Webinar, 05.16.2023

Beyond Healthy: What the Industry Needs to Know About FDA's Proposed Healthy Regulations & Related Litigation Risks  
Webinar, 11.02.2022

PFAS & Consumer Products: Navigating Evolving Liability & Litigation  
Presented by Sheppard Mullin and Ramboll  
Webinar, 06.23.2022

Author Happy Hour: The Future of Food? CRISPR-Edited Agriculture  
04.26.2022

Food Advertising, Labeling, and Litigation Conference: *For the Food and Dietary Supplement Industries*  
Virtual, 09.28.2021

Plastic and Single-Use Legislation and Litigation  
10th Annual Food, Beverage, and Supplements Virtual Regional CLE Program  
05.25.2021

Product Labeling & Advertising Claims Check-Up  
Webinar, 10.14.2020

Food Advertising, Labeling, and Litigation Conference: *For the Food and Dietary Supplement Industries*  
FDLI Virtual Event  
September 22-24, 2020

## Memberships

Member, Food & Drug Law Institute California Programs Planning Committee

Member, Orange County Bar Association

Co-Chair, Orange County Bar Association's Mommy Esquire Committee

Past Member of Board of Directors, Orange County Women Lawyers Association

## Podcasts & Webinars

Diligencing Your Supply Chain: Key Considerations for Food Service & CPG Companies  
10.12.2023

Careful What You Say: The Latest in False Advertising Litigation  
07.25.2023

Third Annual Ad Law Symposium  
05.16.2023

Beyond Healthy: What the Industry Needs to Know About FDA's Proposed Healthy Regulations & Related Litigation Risks

11.02.2022

Product Labeling & Advertising Claims Check-Up Webinar

10.14.2020

Class Action Threats Facing the Consumer Finance Industry in the Age of COVID

06.25.2020

## Practices

Litigation

Class Action Defense

ESG and Sustainability

## Industries

Artificial Intelligence

Energy, Infrastructure and Project Finance

ESG and Sustainability

Food and Beverage

Healthcare

Retail, Fashion & Beauty

## Education

J.D., University of California, Los Angeles, 2013

B.A., Cinema-Television (Critical Studies), University of Southern California, 2007, *magna cum laude*

B.A., University of Southern California, 2007, *magna cum laude*

## Clerkships

Prior to working at Sheppard Mullin, Abby worked for the Honorable Andrew J. Wistrich of the U.S. District Court for the Central District of California as an extern in 2011.

## Admissions

California

U.S. District Court for the Central District of California

U.S. District Court for the Northern District of California

U.S. District Court for the Southern District of California  
Ninth Circuit Court of Appeals  
Fourth Circuit Court of Appeals