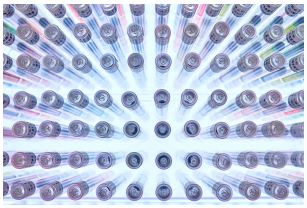

Independently Commissioned Studies Support PFAS Class Action Challenging Apple Sports Bands

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In *Cavalier v. Apple, Inc.*, a group of California consumers launched a nationwide class action accusing Apple of fraud, negligence, and other state consumer law claims arising from its sale of Apple Watch Sport Bands. The plaintiffs alleged that their Sport Bands contained dangerous levels of perfluorohexanoic acid (PFHxA) — a type of the "forever chemical" perfluoroalkyl substance (PFAS) — which poses the risk of causing a variety of serious health problems to users, such as kidney damage and "reproductive toxicity." According to the plaintiffs, Apple failed to warn them of the potential health risks of PFAS chemicals in the Sports Bands before they purchased them.

The plaintiffs' class action complaint rested in large part upon two studies of the Apple Sport Bands that claimed wristband material contained "alarming and hazardous levels of PFHxA." The complaint also cited test results from an independent lab hired by the plaintiffs that concluded that Apple Sport Bands purchased directly from Apple's website had "PFHxA at a concentration of 1020.114 ng/g, 'which is 40.8 times higher than Apple and European Union's threshold detectable limit for PFHxA.'"

In March, a federal judge rejected Apple's motion to dismiss. First, Apple argued that the plaintiffs could not satisfy Article III's injury and traceability requirements because they could not show that Apple Sports Bands contained PFHxA or that they contained the chemical at harmful levels. The court, however, found that the plaintiffs' own independent lab testing provided enough facts to plausibly allege that the Sports Bands had "risky levels of PFHxA."

Next, on the fraudulent concealment/omission claim, the court rejected Apple's argument that the complaint failed to allege knowledge of concealment of the presence of elevated PFHxA levels. In the court's view, allegations that Apple set an amount of PFHxA necessary to trigger reporting requirements and restricted

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its use were sufficient to plausibly allege that Apple knew what was in its products, and all the so-called *LiMandri* factors support the conclusion that Apple had a duty to disclose. Though the court agreed that the complaint failed to allege with particularity that the plaintiffs relied on, or were exposed to, Apple's alleged misstatements, the court granted leave to amend.

For PFAS litigation and beyond, this ruling demonstrates that California consumer class action plaintiffs can increasingly rely on their own independently commissioned studies to support scientific or technical allegations, and that federal courts have shown greater willingness to consider those studies, at least at the pleading stages. Rather than relying solely on publicly available, peer-reviewed research or official government reports, the court's ruling reinforces that consumer plaintiffs can retain experts to design and conduct targeted analyses addressing the products and practices at issue, then cite the resulting data to plausibly allege falsity, defect, or misleading conduct. When these studies are performed using recognized methodologies and presented through qualified experts, they can serve as a powerful form of leverage by framing the scientific debate early in the litigation.

As a practical matter, the ability to ground claims in plaintiff-generated empirical testing strengthens consumer complaints against motions to dismiss and can increase settlement pressure. For more information about this case and its implications for future PFAS litigation, please contact the authors or any attorney with FBT Gibbons' Class Actions team.

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