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Food & Beverage

## Product Liability Regulation & Legislation To Watch In 2019

*Law360*

Michael Best Partner Paul Benson was quoted in *Law360*'s article, "Product Liability Regulation & Legislation To Watch In 2019."

How the U.S. Food and Drug Administration modernizes the process for clearing medical devices to enter the marketplace and debates over how plant-based alternatives to milk and meat should be labeled will be among the key regulatory developments product liability attorneys will be watching in the new year.

The FDA is fast-tracking its review of whether plant-based foods should be allowed to use the terms "milk" and "butter" on their labeling, as it's updating requirements on how certain food products can be made and what they can contain.

The FDA asked the public to weigh in on how they understand terms like "milk" and "cheese" when they're used to label foods that are made from plants, and if they're aware of nutritional differences between these foods and traditional dairy products. The agency said those comments will help it develop draft guidance on how plant-based dairy alternatives should be labeled.

The FDA has said it's concerned that consumers may not be aware of those differences, pointing to case reports of children developing a disease called kwashiorkor, a type of severe protein deficiency, after drinking only rice-based milks.

"I see a pitched battle, at least legislatively, over that issue," Paul Benson of Michael Best & Friedrich LLP said.

Benson said he wouldn't be surprised if a bill on milk labeling gets introduced, given FDA Commissioner Scott Gottlieb's position that milk only comes from lactating animals.

"Whether that causes a lawsuit to be filed sometime down the road is something I am looking out for," Benson said.

The labeling of meat substitutes derived from plants will also be a hot issue in 2019, Benson said.

"This whole movement toward plant-based meats is real, there's no doubt about that," Benson said. "When you see companies like the Cargills of the world that are actually taking an investor position in Beyond Meat, which is a plant-based meat alternative, you know that's for real."

There's also the issue of how meat that is made from animal-cell culture technology instead of slaughtered animals is labeled, Benson said.

"There's a big fight right now over what are they going to call it. Are they going call it 'cell-meat'? Are they going to call it 'cultured meat?'" Benson said. "The people that are pushing it want to call it 'clean meat,' and, of course, the meat industry is not having any of that."

To read the entire *Law360* article, [click here](#).

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