LITIGATION MINUTE: RED LOBSTER COMPLAINT HIGHLIGHTS THREAT OF ESG LITIGATION TO THE FOOD AND BEVERAGE INDUSTRY

ESG IN LITIGATION SERIES: PART EIGHT OF EIGHT

Date: 26 July 2022

Litigation Minute

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WHAT YOU NEED TO KNOW IN A MINUTE OR LESS

The food and beverage industry faces increasing scrutiny of its Environmental Social and Governance (ESG) practices. Individual consumers have grown increasingly concerned about the environmental and public health effects of food production. A recent class-action complaint filed against restaurant chain Red Lobster highlights how these consumers are seeking to challenge companies' sustainability policies and environmental and animal welfare standards.

In a minute or less, here is what you need to know about this growing threat.

Class-Action Complaint Against Red Lobster

Food and beverage purveyors are not immune to ESG supply chain concerns. The chain restaurant Red Lobster was sued in the Central District of California in June 2021 for misleading customers regarding the sustainability of its products. The complaint alleges that Red Lobster represents itself as a sustainable purveyor of seafood, with representations on its menu such as “Seafood with Standards,” “Traceable. Sustainable. Responsible,” and “These are more than just words on our menu—it's our promise that all of the seafood we serve is sourced to the highest standards.”[1] The complaint goes on to assert that “[c]ontrary to Red Lobster's claims, its Maine lobster menu items . . . are sourced from suppliers that use environmentally destructive practices that threaten endangered populations of North American right whales.”[2] Similarly, the plaintiffs argue that Red Lobster's shrimp products are sourced from unsustainable environmental regions and that its shrimp suppliers use inhumane practices.[3]

The above facts have allegedly resulted in adverting and a menu that misleads customers about the sustainability and ethicality of Red Lobster's seafood supply chain. Ultimately, the Plaintiffs argue these alleged misrepresentations are a violation of California consumer-protection statutes, as it induced the plaintiffs to purchase products they otherwise would not have, or purchased products at a higher price.[4]

Red Lobster has vigorously refuted these claims, and a motion to dismiss remains pending in front of the court at the publication of this article.

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Mitigating These Risks

Even if the claims are not true, a class action lawsuit can cause both economic and reputational damage. The food and beverage industry can take steps to avoid the expenses and reputational harm caused by such class action lawsuits.

Restaurants and other companies dealing in food production should proactively ensure consumers that their food is sourced and produced in sustainable and ethical ways. These companies should scrutinize their menus and public statements to ensure they can substantiate statements about sustainability with data and evidence.

FOOTNOTES

[1] Complaint at ¶¶ 7-9

[2] Complaint at ¶ 10.

[3] Complaint at ¶¶ 11, 12.

[4]Complaint at ¶¶ 16, 17.

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