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Manatt's Advertising, Marketing & Media Practice Receives National Ratings for Excellence in *Chambers USA 2011*

Manatt's Advertising, Marketing & Media Division was recognized as one of the nation's leading practices for both advertising transactional work and litigation in the newly published, ninth annual *Chambers USA: America's Leading Lawyers for Business*.

Beyond the superior practice ratings, four of the Division's lawyers were identified as "Leading Lawyers," including Division Chair Linda Goldstein, New York litigation partner Thomas C. Morrison, Washington, D.C. litigation partner Christopher A. Cole**,** and New York partner Jeffrey S. Edelstein.

Of the Division, *Chambers* remarked that Manatt's "advertising expertise is sought after by clients looking for complete coverage. Not only do its attorneys cover the waterfront of advertising law issues, but the team is also able to offer truly national range, drawing upon experts in California, New York and Washington, D.C."

In total, the 2011 rankings recognized 17 Manatt lawyers and nine of the firm's practices. In addition to Advertising, Marketing & Media, *Chambers* honored Manatt's Healthcare, Entertainment, Real Estate and Corporate / M&A practices.

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State Legislators Reject Law Regulating Social Networks

A closely watched piece of California legislation that would have regulated the privacy controls of social networking sites has been voted down by the state Senate – twice.

The Social Networking Privacy Act would have required sites to establish a default privacy setting making all information about a user – except name and city of residence – private, absent the user's express agreement to make the information public. The law required that sites allow users to choose their privacy settings during the registration process in an "easy to use format," with an explanation of users' privacy controls in "plain language." If requested by a user (or the parent of a minor under the age of 18), the law mandated that sites remove personal information within 48 hours.

The bill passed the Senate Judiciary Committee but failed a floor vote in the state Senate.

Prior to the vote, the bill's sponsor, state Sen. Ellen Corbett, told her fellow legislators that "It's crucial, members, for us to remember that our private information is not a commodity owned by the Internet to be shared and disclosed by third parties. . . . In fact, members, we on this floor are some of the few people who can do something about that," according to the *San Francisco Chronicle*.

But the vote resulted in a deadlock, 16-16, with several lawmakers declining to vote, leaving the measure short of the 21 votes necessary to pass it. One week later a second vote resulted in a 19-17 vote, still two votes short of the necessary majority. In a statement after the legislation failed to pass, Sen. Corbett said she felt "terrible for children, their parents and the many others who are at risk of being victims of identity theft or other criminal activity because their private information falls into the wrong hands. It is clear to me that everyone, and especially children, who use social networking sites needs their personal information better protected."

To read the failed legislation, click here.

Why it matters: While state Sen. Corbett vowed to reintroduce the legislation, she faces a vocal and active opposition made up of major Internet companies like Facebook, Google, Skype, Twitter, and Yahoo!. Prior to the Senate vote, the companies sent a letter arguing that the law is unnecessary and unconstitutional, violating users' First Amendment rights by imposing restrictions on their free speech. In addition, the law would have raised Commerce Clause problems by imposing different rules on California citizens and companies than the rest of the country, the companies argued. After the first vote, a spokesperson for Facebook told the *San Francisco Chronicle* that "lawmakers rejected [the bill] today because it was a step in the wrong direction for California's growing Internet industry at a time when the state's economy can least afford it."

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Pharmaceutical Companies Face Impact of Facebook Policy Change

Creating potential liability for pharmaceutical companies wary of Food and Drug Administration regulations, Facebook recently changed its policy to state that it will no longer allow the makers of new pharmaceutical product pages to disable the comments feature.

Pharmaceutical companies commonly disable the comment feature on their product pages – a practice known as "whitelisting" – because of concerns that consumers might make a comment about a nonapproved or off-label use of the drug, triggering the FDA's scrutiny. But that practice will change for many companies after Facebook sent an e-mail to existing pharmaceutical companies with a presence on the social networking site.

InTouch Solutions, a digital marketing agency focused on the pharmaceutical industry, posted the content of the e-mail, sent by Facebook sales representatives.

"As you know, Facebook pages are a free product for organizations, public figures, businesses and brands to express themselves and have an authentic, engaging, two-way dialogue with people on Facebook. Previously, pharmaceutical brands could submit a request through their Facebook sales representative to disable commenting on their Facebook page. Starting today, Facebook will no longer allow admins of new pharma pages to disable commenting on the content their page shares with people on Facebook," the e-mail read. Facebook did say that it would consider allowing branded drug pages to disable the comments feature on their pages, however. "Subject to Facebook's approval, branded pages solely dedicated to a prescription drug may (continue to) have commenting functionality removed," the e-mail said.

Why it matters: Pharmaceutical companies face a continuing challenge to engage with consumers via social media. Legal requirements for the companies – like drug warnings, for example – don't fit easily into a 140-character Tweet or quick Facebook post. Pharmaceutical companies that wish to maintain a presence on Facebook under the new policy must either create a branded Facebook page and seek to have the company approve disabling of the comment function, or be prepared for around-the-clock monitoring of the comment section. Drug companies have sought guidelines from the FDA on social media and Web marketing for quite some time but have yet to receive specific guidance.

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Google Gets Approval for Buzz Settlement

After much controversy, a U.S. District Court judge has approved a settlement in the class action suit against Google over its Buzz social networking service.

Promoted as a competitor to Facebook when it launched in February 2010, Buzz faced immediate criticism after Google automatically added the service to all users of its e-mail system, Gmail. The program also turned Gmail users' frequent e-mail contacts into followers, and made photos and information public by default.

Just weeks after its launch, consumers filed a class action on behalf of the roughly 31.2 million Gmail users alleging that Google violated the Electronic Communications Privacy Act, the Stored Communications Act, the Computer Fraud and Abuse Act, and publicly disclosed private facts.

After reaching a preliminary settlement, Google agreed to create an $8.5 million settlement fund to be paid to "existing organizations focused on Internet privacy policy or privacy education" after fees and costs. Class counsel reported that they received 77 applications from potential recipients seeking more than $35 million.

On May 31, U.S. District Court Judge James Ware granted final approval to the settlement fund to be split among the plaintiffs' attorneys ($2.125 million) and 14 privacy-related advocacy groups, nonprofits, and education organizations.

Google also agreed to independent privacy audits for the next 20 years.

Under the settlement, Google will make payments to organizations like the Electronic Frontier Foundation ($1,000,000), as well as education programs like Harvard's Berkman Center for Internet & Society and Berkeley's Center for Law & Technology ($500,000 each).

After filing an objection to the settlement, the Electronic Privacy Information Center also received a piece of the settlement totaling $500,000. EPIC argued that it had tipped the Federal Trade Commission off to Google's indiscretion when it filed a complaint with the agency, which in turn led to the class action lawsuit.

The court modified the list of recipients by adding EPIC as well as the Markkula Center for Applied Ethics at Santa Clara University ($500,000), a program dedicated to research and dialogue on issues of practical ethics.

To read the court's order approving the settlement in *In Re Google Buzz User Privacy Litigation*, click here.

Why it matters: With settlement approval for its civil suit, Google can now move forward from its Buzz debacle, having settled similar charges with the FTC in April. Under the terms of that settlement, Google avoided monetary penalties, but agreed to implement a comprehensive privacy program and undergo regular audits for allegedly using deceptive tactics and violating its own privacy policy, according to the agency.

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ECPA: Legislation, Court Decision

The 25-year-old Electronic Communications Privacy Act has been in the news lately, with Sen. Patrick Leahy (D-Vt.) introducing legislation to modernize the bill and a California federal court ruling that the Act does not preempt state law claims of privacy violation.

Sen. Leahy's proposed bill, the ECPA Amendments Act of 2011, seeks to increase privacy protections and update the law by adding geolocation and remote computing service providers to the entities covered by the Act.

The bill would require a search warrant based on probable cause before electronic communications could be disclosed to authorities, although service providers could turn over "non-content communications records," like a subscriber's name and address, without a warrant. Geolocation information similarly would require a warrant, with exceptions for emergency response and historical data.

"Since the Electronic Communications Privacy Act was first enacted in 1986, ECPA has been one of our nation's premier privacy laws," Sen. Leahy said in a statement. "But, today, this law is significantly outdated and outpaced by rapid changes in technology …. Updating this law to reflect the realities of our time is essential to ensuring that our federal privacy laws keep pace with new technologies."

In related news, a California federal court recently ruled that the ECPA does not preempt a plaintiff's state law claims that NebuAd violated consumers' privacy when it tracked them online to deliver targeted ads.

Dan Valentine filed a putative class action suit against NebuAd and the ISPs it contracted with to install devices to monitor subscribers' Internet activity. The ISPs passed the data along to NebuAd, which analyzed it and used it to sell targeted advertising to subscribers.

In addition to claiming the defendants' practices violated the ECPA, the plaintiffs argued it violated California state computer crime and fraud laws, as well as its invasion of privacy statute.

NebuAd argued that the federal ECPA preempted the state law claims, but U.S. District Court Judge Thelton E. Henderson disagreed.

Although NebuAd argued that the ECPA preempted state law claims because it "occupied the field" with respect to the interception of electronic communications, "the mere fact that a federal scheme is comprehensive is insufficient for a finding of field preemption, which 'arises only in "extraordinary" situations,'" the court said.

"Having found no intent by Congress to occupy the entire field involving the interception of communications nor any conflict between [the ECPA] and [California state law] that would require the latter to yield under the supremacy clause," the court said it was free to enforce state law.

To read S.1011, Sen. Leahy's bill, click here.

To read the court's order in *Valentine v. NebuAd*, click here.

Why it matters: The ECPA update joins a number of other privacy-related bills pending in Congress this legislative session. The proposed legislation does not address the issue of preemption presented in the California *NebuAd* suit, leaving the scope of the federal Act a matter of interpretation for the courts.

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Massachusetts Suit Mirrors Recent California Ruling on Zip Codes

A putative class-action lawsuit was filed recently in Massachusetts against arts and crafts retailer Michaels Stores alleging that the company violates state consumer protection law by collecting and recording consumers' zip codes during credit card transactions.

According to the complaint filed by Massachusetts resident Melissa Tyler, the zip codes are combined with consumers' names and home mailing addresses and used "for intrusive marketing purposes" such as Michaels' own direct marketing or the sale of such information to third parties. Massachusetts law provides that "No person . . . that accepts a credit card for a business transaction shall write, cause to be written or require that a credit card holder write personal identification information, not required by the credit card issuer, on the credit card transaction form. Personal identification information shall include, but shall not be limited to, a credit card holder's address or telephone number."

According to the suit, Michaels' employees do not request zip codes for verification purposes, but to engage in data mining.

"Like crows collecting shiny bits of silver to line their nests, retailers like Michaels use whatever means necessary to collect consumer data so that they can better market their wares," the plaintiff alleged.

For support, the suit cites to the highly publicized California Supreme Court decision in *Pineda v. Williams-Sonoma*, where the court held that zip codes constituted "personal identification information" and their collection by Williams-Sonoma violated state law. The suit seeks an injunction from the further collection of zip codes and asks that the court treble the class's statutory damages of $25 each, as well as award damages for unjust enrichment.

To read the complaint in Tyler v. Michaels Stores, click here.

Why it matters: When the *Pineda* decision was released, retailers with a presence in California faced a change in their practices. But with Tyler's Massachusetts suit, it looks like the *Pineda* case will have an even more widespread impact, with consumers in other states bringing similar suits. Retailers who have a practice of collecting consumers' zip codes – or other personal information – should be aware of their relevant state law.

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NAD: Discontinue Unsupported Superiority Claims for P&G's Downy

In an challenge brought by competitor Sun Products, the National Advertising Division recommended that Procter & Gamble modify claims for its Ultra Downy April Fresh Liquid fabric softener in a television commercial because the claims included an unsupported message of product superiority.

The decision focused on one of three challenged commercials after Procter & Gamble permanently discontinued running one ad and voluntarily discontinued using another.

Claims at issue included "What if clean sheet *day* became clean sheet *week*?" and "New Ultra Downy April Fresh with Scent Pearls gives a whole week of freshness with just one wash."

Sun Products argued that the Downy ad campaign made false and misleading claims that competitors' fabric softeners lost fragrance faster and left fabrics less soft than Downy. Procter & Gamble said the campaign was an attempt to express to consumers that its Downy with Scent Pearls extends freshness to an entire week – not that Sun Product's Snuggle loses all fragrance after one day.

But the NAD determined that the "commercial could reasonably be interpreted by consumers to mean that Snuggle's fragrance lasts one day as compared to Ultra Downy's, which lasts one week."
The beginning of the television commercial began with a voiceover asking "What if clean sheet *day* became clean sheet *week*? New Ultra Downy April Fresh has Scent Pearls that give you a whole week of freshness with just one wash," with the word "day" in the "clean sheet day" visual crossed out to state "clean sheet week."

"This introduction, NAD determined, sets the tone of the commercial from which consumers could reasonably take away the message that fabric softeners typically provide one day's worth of fresh scent (including, but not limited to, the challenger's Snuggle), but that now Ultra Downy with its new formula provides sufficient fragrance to last a full seven days," the panel said.

Further frames depicted a bottle of Ultra Downy with checkboxes for seven days stacked next to it, all checked off, next to a bottle of Snuggle with no boxes next to it.

"Certainly one of the messages reasonably conveyed by the [commercial] is that the challenger's Snuggle's fresh scent lasts for one day as opposed to the advertiser's

Downy, which lasts for seven days – a disparaging message that is unsupported by the evidence," the NAD said.

It recommended that the comparative message be discontinued.

Sun Products commissioned two different consumer perception surveys, which it contended supported its position. P&G challenged the surveys, arguing they lacked an effective control and that Sun Products performed an improper aggregation and coding of data. The NAD said it could not conclude that the survey was fatally flawed.

The NAD offered some advice for companies conducting consumer perception surveys, emphasizing the value in open-ended questions to avoid leading and probing questions. "NAD believes that a progression from open-ended to increasingly focused questioning using commonly employed filtering techniques is a better approach to probing for implied messages than asking leading questions that increase the potential for biased results," the NAD said. To read the NAD's press release about the decision, click here.

Why it matters: "'It is well established that an advertiser is obligated to support all reasonable interpretations of claims made in its advertising, including messages it may not have intended to convey.' While NAD appreciates how important it is for an advertiser to be able to distinguish its product from competing products, at the same time NAD recognizes that expressly or implicitly disparaging claims can damage a product's market share. Therefore, NAD scrutinizes such claims to ensure that they are truthful, accurate and narrowly drawn," the NAD said.

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New Suits: False, Unsupported Claims Alleged in Probiotics, Arthritis Pills

Two new suits were filed alleging that companies made false, unsupported claims about their lines of probiotic products and arthritis pills.

A New Jersey class action alleges that although Bayer HealthCare promotes its Phillips Colon Health Probiotic products as providing "overall digestive health" because the line "replenishes the good bacteria when diet and stress cause constipation and upset your natural balance," those claims are false and misleading. The complaint further alleges

that Bayer's advertising and labeling claims that the digestive and immune health benefits touted by the company are "based on scientific evidence," but the company's formulation of "3 strains of good bacteria" has not been scientifically studied or tested.

According to the plaintiff, "scientists have yet to settle on a definition of what a 'probiotic' even is," nor have they "mapped the tens of thousands of bacteria strains in the human body's intestinal flora, and do not know whether increasing one type of bacteria provides health benefits." The complaint also states that Bayer has no studies that provide substantiation, clinical or otherwise, for its claims about Phillips' digestive health and immune system claims.

The suit seeks to certify a nationwide class alleging violations of New Jersey's consumer fraud law and asks for a corrective advertising campaign, an injunction, and monetary damages.

In the second case, a California resident filed suit against Schiff Nutrition, alleging that the company's claims for its line of Move Free Advanced dietary supplements are false and misleading. According to the complaint, despite the fact that there is no cure for the three major symptoms of arthritis – pain, joint damage, and limited motion – Schiff markets its joint health dietary supplements as "clinically tested" to rebuild joint cartilage, improve joint function, and reduce joint pain in less than seven days.

The plaintiff alleges that neither of the primary active ingredients in the products – glucosamine and chondroitin sulfate – has competent scientific evidence to support their usage to treat the major symptoms of arthritis. "Despite inadequate testing and no scientifically valid confirmation that Move Free is an effective joint treatment – let alone an effective treatment for *all* joints in the human body, for customers of *all* ages and for *all* stages of joint disease – [Schiff] states on the Products' packaging and labeling that Move Free, with its 'clinically tested' formula, will "strengthen[], protect[] and rebuild[] joints" and "start[] comforting sore joints in less than 7 days," according to the complaint.

The suit also claims Schiff "reaped enormous profits" from its false marketing of the Move Free line, with 2010 sales in excess of $100 million.

Alleging violations of California's consumer protection law, the suit seeks monetary damages for a class of California residents, an injunction, and a corrective advertising campaign.

To read the complaint in *Worthington v. Bayer HealthCare*, click here.

To read the complaint in *Lerma v. Schiff Nutrition*, click here.

Why it matters: Both probiotics and dietary supplements have faced scrutiny from regulators and consumer suits recently. Earlier this year the Federal Trade Commission settled with a subsidiary of Nestlé over charges the company made deceptive health benefit claims about children's drink BOOST Kid Essentials, a probiotic drink for children. Dannon paid $21 million to the FTC and 39 state attorneys general over allegations the company had exaggerated the health benefits of its Activia probiotic products. The company also settled a consumer suit over similar allegations for $45 million. And in a response to concern about dietary supplements, the Dietary Supplement Full Implementation and Enforcement Act of 2010 was introduced in the last congressional session to ensure the Food and Drug Administration's implementation and enforcement of the 1994 Dietary Supplement Health and Education Act.

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Court: Fiji's "Green Drop" Seal Not Misleading

No reasonable consumer would believe that Fiji Water's "green drop" seal declared the product environmentally sound by a third-party organization, a California appellate court recently held.

The court affirmed the dismissal of a class-action lawsuit alleging that Fiji Water misled consumers into believing that its water had been endorsed by an environmental organization, when the "green drop" seal was really a self-created marketing tool.

Emphasizing the increasing awareness and sensitivity to environmental issues, the plaintiff argued that consumers are searching for products that are "environmentally superior." Playing into those desires, Fiji attempted to deceive consumers with the use of a "green drop" seal of approval on the front product label that "looks similar to environmental 'seals of approval' by several independent, third-party organizations," according to the complaint.

But the court said the plaintiff's claims were all wet.

Looking to the Federal Trade Commission's Green Guides, which the state of California has incorporated into law (although the Guides themselves are only administrative interpretations and not enforceable regulations), the court said that the plaintiff's beliefs did not satisfy the reasonable consumer standard. "Does the green drop on Fiji water

bottles convey to a reasonable consumer in the circumstances that the product is endorsed for environmental superiority by a third-party organization? No," the court said.

The drop itself "bears no name or recognized logo of any group, much less a third-party organization, no trademark symbol, and no other indication that it is anything but a symbol of Fiji water. . . . Fiji water has just a green drop, the drop being the most logical icon for its particular product – water," the three-judge panel wrote. The context of the green drop further supported the conclusion that reasonable consumers would not be misled, the court said. "[A] green drop on the back of every bottle appears right next to the Web site name, 'fijigreen.com,' further confirming to a reasonable consumer that the green drop symbol is by Fiji water, not an independent third-party organization – and, of course, inviting consumers to visit the Web site for product information, which includes Fiji Water's explanation of its environmental efforts," the court said.

To read the court's order in *Hill v. Roll International*, click here.

Why it matters: The ruling is a victory for Fiji Water, as the suit was dismissed with prejudice. However, the company still faces another recently filed class action suit, which also makes environmental claims against the company. Fiji's multiple suits over environmental claims highlight both the increasing use of such claims and the rising number of consumer lawsuits over green marketing.

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Trademark Suits Over Tea, Living Comfortably

Trademark disputes are the basis for two new suits, with companies battling over the rights to slogans for tea and home furnishings.

Hollander Home Fashions, holder of the trademark "Live Comfortably," recently filed suit in Florida federal court against national chain La-Z-Boy over its use of the phrase "Live Life Comfortably."

A supplier of bedding – pillows, comforters, blankets, throws, featherbeds, and mattress pads – Hollander has used its trademark in connection with bedding products since 2002, according to the complaint. The phrase appears in its advertising and on its Web site in both English and French ("Une vie Douillette").

La-Z-Boy began using “Live Life Comfortably” in connection with an array of furniture, including sofas, chairs, recliners, loveseats, and sleepers, in print and television advertising as well as on its Web site, according to the complaint.

Particularly in connection with bedding products, La-Z-Boy’s use of the phrase “is likely to cause confusion and/or to cause mistake, and/or to deceive,” according to the complaint, which seeks an injunction against La-Z-Boy’s use of the slogan, as well as trebled compensatory damages under the Lanham Act.

Hollander also requested that the court order a denial of La-Z-Boy’s trademark registration for the phrase.

In a similar suit, the manufacturer of Celestial Seasonings’ Sleepytime Tea filed suit in New York federal court against Mexican tea seller Royal Tea over the defendant’s “Sleeping Time” tea line.

Having held the trademark for the Sleepytime line of tea products since 1972, Celestial Seasonings is an industry leader in the herbal tea market, according to the complaint. The defendant’s use of the phrase “Sleeping Time” for its herbal teas and tea products in stores and over the Internet constitutes trademark infringement and dilution, Celestial argues.

“In addition to using a confusingly similar mark on goods that are identical in type to the Sleepytime products, [the defendant’s] products travel in the same channels of trade as the Sleepytime products and are purchased by the same class of consumers,” the suit alleges.

Celestial seeks a permanent injunction against the defendant’s use of the term “Sleeping Time,” destruction of the entire inventory of infringing products, and trebled damages.

To read the complaint in *Hollander Home Fashions v. La-Z-Boy*, click here.

To read the complaint in *Hain Celestial Group v. Royal Tea*, click here.

Why it matters: Cases of trademark infringement hinge on the likelihood that the defendant’s use of a similar word or phrase will cause consumer confusion as to the source, sponsorship, or approval of such goods. In these cases, the plaintiffs will need to establish that consumers of tea and bedding will be confused by the defendants’ use of similar phrases for their products.

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Actress Loses Publicity Rights Suit Against Photo Agency

Former Partridge Family actress Shirley Jones lost her suit against photo agency Corbis in which she claimed the company's use of her name and image on its database violated her publicity rights.

Jones, an actress and singer who won an Academy Award for Best Supporting Actress in 1960, is best known for her work as the mother on the 1970s television show *The Partridge Family*. She filed suit in November 2010, claiming that Corbis' Web sites, which allow parties to search by a celebrity's name and license the images in the search results, violated her publicity rights and ability to control the use of her name, image, and likeness in violation of California law.

But U.S. District Court Judge Stephen V. Wilson disagreed.

Consent to use a name or likeness can be implied from the party's conduct and the circumstances, he wrote, and Jones did not dispute that she consented to having individual photographers at red carpet events – including the 10 images she cited as supporting documentation in her complaint – take her picture and distribute the images.

"It is undisputed that [Jones] voluntarily posed for photographers, who she knew would display her images to prospective buyers, for over 40 years without objection. It was well understood in the entertainment industry that potential customers would not purchase images they could not see before the purchase," Judge Wilson wrote.

Although Jones argued that the scope of her consent was limited only to the efforts of the individual photographers who took her picture and did not extend to Corbis' display of her images to solicit sales of the images, "the undisputed record in this case establishes that [Corbis] is the assignee of the photographers that took [Jones'] pictures," the court said.

"No reasonable jury could find that [Corbis'] display for this purpose was not consensual. Any other holding would require that individual photographers themselves market their photos or obtain express consent from each subject prior to utilizing a third-party distributor to market their red carpet photos. [Jones] presents no basis for such a requirement," Judge Wilson concluded.

To read the court's opinion, click here.

Why it matters: Although the court granted summary judgment to Corbis, it noted that its reasoning was limited to the facts of the case and "does not broadly restrict [Jones'] right of publicity." "The Court's reasoning does not address whether [Jones'] consent encompasses any other type of display. For example, the Court's holding leaves [Jones'] rights of publicity undisturbed in cases where a defendant uses [Jones'] image to advertise an unrelated product such as a food item or if a defendant transforms Plaintiff's image into a separate product," Judge Wilson wrote.

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*Noted and Quoted...*Christopher Cole Unpacks Claims at Issue in False Advertising Lawsuit Filed by Plastic Bag Manufacturers

***Forbes.com* turned to Manatt partner Christopher Cole to provide insight on a recent lawsuit filed by three leading plastic bag manufacturers against ChicoBag, the maker of a reusable bag. The plaintiffs allege that ChicoBag violated the Lanham Act by knowingly publishing inaccurate statistics on its Web site, including the low recycling rate of one percent for plastic bags.**

To succeed on these claims, the plaintiffs will have to show not only are the published facts about plastic bags wrong, but that they also have a quantifiable impact on their businesses. "The Lanham Act doesn't really deal with slander or libel, so you can't use it to go after claims that are insulting in general, it's targeted at a commercial injury," Mr. Cole said. "That means the plaintiff has to show that the claims at issue are causing specific injury of some kind, more than just vague reputational damage." To read the full article, click here.

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