Case Dismissed in FTC v. Quincy Bioscience

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On Thursday, a federal court in New York dismissed an FTC and New York Attorney General action against Quincy Bioscience, which sells the dietary supplement, Prevagen. Quincy bases claims for its product on research that includes a randomized, controlled clinical study. The court observed that the parties agreed that this “gold standard” study followed “normal well-accepted procedures” and showed statistically significant results in a subgroup of healthy, aging adults, although not the experimental group overall.

The court acknowledged the regulators’ arguments that data analyses revealing the subgroup results were subject to an increased risk of false positives. The court, however, concluded that the regulators failed to allege that “any actual errors occurred” or that “that reliance on the subgroup data ‘is likely to mislead consumers acting reasonably under the circumstances.’” The court observed that “the subgroup concept” is “widely used in the interpretation of data in the dietary supplement field.”

Kelley Drye represented Quincy Bioscience in the matter.