

Coca-Cola Scores Second Win over Green Claims in One Month

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This month, the DC Superior Court [dismissed](#) a lawsuit brought by Earth Island Institute against Coca-Cola, alleging that the company falsely represents itself as “a sustainable and environmentally friendly company, despite being one of the largest contributors of plastic pollution in the world.” The court held that many of the challenged statements are aspirational and do not include anything that can be measured to determine whether they are true or false.

Just two weeks later, Coca-Cola scored a second victory, this time in a case brought by the Sierra Club and a group of consumers over claims that certain water bottles were “100% recyclable.” The plaintiffs alleged that the claims were false and misleading because most plastic bottles are not recycled. Plaintiffs argue that most bottles end up in landfills or incinerators due to a lack of recycling capacity and a lack of demand for recycled plastics.

In a short opinion, a California federal court determined that “no reasonable consumer would understand ‘100% recyclable’ to mean that the entire product will always be recycled or that the product is ‘part of a circular plastics economy in which all bottles are recycled into new bottles to be used again.’” Instead, the court held that “recyclable” simply means that a product is *capable of* being recycled. The plaintiffs’ interpretation of the word ran counter to common sense, the FTC’s Green Guides, and California law.

This decision is good news for Coca-Cola and any other company that wants to advertise that a product is “recyclable.” Had the plaintiffs prevailed, that could have resulted in a standard that would require companies to foresee whether a product will actually be recycled before advertising that it can be recycled. Not only is that standard unworkable, if companies were prohibited from informing consumers that a product can be recycled, it’s likely that even fewer products would be recycled.

We’re likely to see a lot more activity in this area over the coming months, both in terms of litigation and (eventually) in terms of the FTC’s eagerly-awaited update to the Green Guides. Stay tuned.