

Partner John E. Villafranco Quoted on FTC Final Consent Order for Nestlé Health Claims

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In a *Nutrition Business Journal* article titled "FTC Issues Final Consent Order for Nestlé BOOST Kid Essentials Health Claims," partner John E. Villafranco was quoted. The article discussed the Federal Trade Commission's (FTC) release of its final consent settling charges that a Nestlé subsidiary made deceptive health claims on its children's health drink BOOST Kid Essentials.

The settlement order as well as a similar order issued against supplement company Iovate Health Sciences sent shockwaves through the nutrition industry last summer, stirring up fears that all new health claims on products would require FDA pre-approval and two human clinical trials going forward.

Mr. Villafranco was lead counsel for Iovate in its FTC negotiations, and Kelley Drye & Warren represented Nestlé in its settlement. He asserts that this final order does nothing to change the settlement reached this summer. Rather, it is a reminder to manufacturers and marketers that FTC's language is becoming more specific when it comes to claims substantiation. "Companies with a conservative approach to marketing should consider these consent orders before taking a product to market," Mr. Villafranco said.