

The Case of the Piggyback Class Action

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Partner [John Villafranco](#) co-authored a *Nutritional Outlook* article entitled "The Case of the Piggyback Class Action." The article explains the concept of "piggybacking," which occurs when a class action lawsuit is filed by a private litigant against an advertiser or manufacturer after a federal agency, such as the FTC, has already taken regulatory action against the same company on behalf of the public. These piggyback class action cases, many of which are virtually verbatim of earlier FTC complaints, are being dismissed and criticized by federal courts, because only the FTC can enforce the terms of the FTC Act, not private litigants. John points out that companies that are frequent targets of advertising substantiation piggyback class actions in particular, such as dietary supplement companies, need to remember that it is the plaintiff's burden to prove falsity of claims, and that lifting allegations directly from FTC complaints is not enough evidence to affirmatively demonstrate falsity or deception.