

One Year On, Davidson Holds Lessons On 'Health Halo' Claims

By **Brienne Letourneau and Sudeep Dhanoa** (July 1, 2025)

Consumer interest in nutrition continues to grow, fueled by social media influencers, public health initiatives and evolving dietary norms. Food manufacturers have sought to meet the demand by developing and promoting products that emphasize positive nutritional attributes.

Yet even factually accurate claims, such as highlighting a product's protein content or inclusion of functional ingredients, can inspire litigation. So-called health halo fraud theories — premised on allegations that labeling creates an overall impression of healthfulness that misleads consumers — continue to proliferate.

These claims, often grounded in subjective interpretations and generalized health narratives, subject manufacturers to costly class actions based more on alleged perception than on demonstrable scientific or legal deception. This trend is unlikely to slow, particularly given the current regulatory climate.

The U.S. Food and Drug Administration's "healthy" labeling rule was finalized in December 2024 and became effective in April, and reflects a broader public health effort to align labeling with current dietary guidance.[1] Similarly, the May report from the Make America Healthy Again Commission has intensified public and regulatory scrutiny of processed foods.[2]

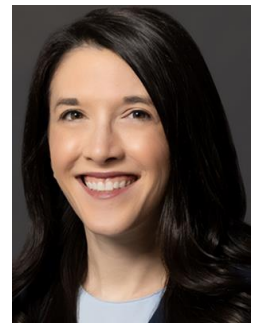
Plaintiffs attorneys often cite such policy developments as a springboard for claims that products are marketed in a misleading way, whether or not those claims ultimately align with the scientific or legal standards applicable to the product.

A case that may prove pivotal in shaping the defense strategy against this wave of litigation is *Davidson v. Sprout Foods*, a June 2024 decision from the U.S. Court of Appeals for the Ninth Circuit that emphasized that plaintiffs must meet a high bar of specificity when alleging fraud-based claims, and cannot rely on generalized or subjective consumer expectations.

As *Davidson* marks its one-year anniversary amid an evolving regulatory environment, this article surveys the post-*Davidson* litigation landscape, and offers practical insights for food and beverage companies seeking to mitigate litigation risk while continuing to communicate the value of their products to consumers in a competitive marketplace.

Davidson v. Sprout Foods

Davidson involved a putative class action challenging the marketing of purée pouch products for young children. The plaintiffs alleged that the packaging of the products



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suggested it was healthy for babies when it was not.[3]

The plaintiffs pointed to label claims about protein, fiber and omega-3 content, contending that these statements misled consumers into believing the products were healthy for children.[4] To support their theory that the products were unhealthy, plaintiffs alleged that the products contained high amounts of sugar, which they claimed could contribute to tooth decay, and that the pouch-based format posed developmental concerns.[5]

The plaintiffs did not, however, allege that the children for whom they purchased the products suffered any of these consequences, or offer any other real-world examples of the harms they alleged. The Ninth Circuit affirmed dismissal of the plaintiffs' fraud-based claims.

In so holding, it reaffirmed that fraud-based claims must meet the heightened pleading standard of Rule 9(b) of the Federal Rules of Civil Procedure by specifying the "who, what, when, where and how" of the alleged deception — and, critically, by explaining what makes the statements false or misleading.[6]

While the district court held that the plaintiffs adequately alleged the product labels conveyed an impression of healthfulness, they failed to allege that the products are in fact harmful.[7] The Ninth Circuit agreed, holding that the plaintiffs' allegations of harm were "largely unspecific" and not tied to the challenged products in a meaningful way.[8]

The Ninth Circuit also faulted the plaintiffs' failure to substantiate with concrete facts their theory that pouch-based foods are harmful.[9] It emphasized that the plaintiffs challenging the veracity of implied health marketing must establish a close causal connection between the product and the harm, and cannot rely on "hypotheticals and contingencies outside the scope of th[e] case." [10]

The Ninth Circuit separately addressed federal preemption, considering whether the FDA had exclusive authority to determine whether the challenged labeling complied with applicable FDA regulations incorporated into state law.[11]

The panel allowed state law claims predicated on noncompliance with state law to proceed, holding that such claims imposed requirements that were parallel to, rather than different from or in addition to, federal labeling standards.[12]

Davidson's Evolving Impact on Fraud Pleading Standards

Davidson marked a notable shift in the approach of the Ninth Circuit — a frequent forum for food labeling litigation — in applying fraud pleading standards in consumer deception cases involving implied health benefits.

A comparison with both post-Davidson decisions and decisions from outside the Ninth Circuit highlights its contribution to narrowing the scope of viable claims.

In *Howard v. Gerber Products Co.*, the plaintiffs attempted to advance a similar theory of harm, alleging that sugar and salt additives in children's foods created long-term health risks by fostering a preference for sweeter foods and increasing lifetime risk of cardiovascular disease, high blood pressure and kidney issues.[13]

Consistent with Davidson, the U.S. District Court for the Northern District of California held that those allegations fell short of the standard articulated by the Ninth Circuit, because the plaintiffs failed to show that the products were inherently harmful and relied instead on

speculative chains of events — namely, overreliance by caregivers and hypothetical future dietary preferences.[14]

Davidson similarly changed the trajectory of the plaintiffs' claims in *Howard v. Hain Celestial Group*, where the plaintiffs also challenged the labeling of pouch-format food products for children under age 2. Before Davidson, the Northern District of California had allowed fraud claims to proceed based on alleged FDA guidance and nutrition recommendations.[15] Post-Davidson, however, the court granted summary judgment for the manufacturer, finding in February that the plaintiffs failed to demonstrate nonspeculative, product-specific harm — precisely the type of deficiency Davidson emphasized.[16]

Courts within the Ninth Circuit have applied the same logic in cases where claims are framed in terms of economic, rather than physical, harm. In *In re: Pacific Market International LLC Stanley Tumbler Litigation*, plaintiffs challenged the marketing of Stanley-brand cups based on the alleged presence of trace amounts of lead.[17]

Earlier this year, applying Davidson, the U.S. District Court for the Western District of Washington rejected the claims for failure to plead "a specific and plausible risk of harm" distinct from the "mere presence" of lead in some unspecified amount.[18]

The ruling underscores Davidson's role in elevating the pleading bar, reinforcing that the mere presence of an allegedly harmful substance is insufficient without well-pled facts establishing a concrete, product-specific risk.

Outside the Ninth Circuit, however, some courts have continued to apply a more permissive standard. In *In re: Nurture Baby Food Litigation*, the plaintiffs alleged a baby food manufacturer falsely marketed its products as meeting "rigorous and uncompromising quality standards" even though they contained trace levels of heavy metals such as arsenic, mercury, lead and cadmium.[19]

In March, the U.S. District Court for the Southern District of New York denied a motion to dismiss, declining to adopt Davidson as persuasive authority, and noting that the Second Circuit does not impose the same heightened specificity requirements when only economic harm is alleged.[20]

This ruling highlights the Ninth Circuit's more exacting approach post-Davidson, and underscores the strategic significance of forum in defending against health-related consumer fraud claims. It may also signal a growing jurisdictional divide in how courts assess the sufficiency of implied health fraud allegations.

Practical Implications for Manufacturers

Davidson provides manufacturers with a clear path to challenging allegations that implied messages of healthfulness are misleading. Plaintiffs must plead not just what message was conveyed, but why that message is false, grounded in specific, product-linked harm rather than generalized assumptions.

Food and beverage companies nevertheless face an ongoing litigation threat, particularly amid heightened public focus on processed foods and evolving regulatory standards. In the year since Davidson, plaintiffs have begun reshaping their theories to emphasize economic harm rather than speculative health risks.

Instead of asserting that a product is inherently unsafe, plaintiffs may allege that consumers

paid a premium for a product marketed as healthier than it actually is.[21] Other plaintiffs may attempt to bolster claims by incorporating detailed scientific studies, expert-style analysis or individualized testing, hoping to lend credibility to allegations of deception.[22]

Some plaintiffs also may target specific regulatory violations as a proxy for misleading messaging, framing their claims as enforcement of parallel state laws to avoid preemption.[23]

These strategic shifts suggest that while Davidson raised the bar for so-called health halo claims, plaintiffs lawyers will strive to clear it. Manufacturers should expect plaintiffs to continue testing the limits, particularly by seeking to leverage evolving regulatory guidance.

Companies should be prepared to challenge whether these evolving strategies meet the heightened standards for falsity or materiality under Rule 9(b).

When faced with a complaint, companies should assess whether the plaintiff's allegations meet the specificity requirements reaffirmed in Davidson. This means examining whether the alleged harms are grounded in concrete, product-specific facts, or whether they depend on hypothetical scenarios, such as excessive product use, speculative behavioral effects or generalized public health concerns untethered to the challenged products.

Companies also can take proactive steps to mitigate litigation risk, including:

- Auditing marketing and labeling claims to ensure they do not overstate health benefits;
- Verifying that express nutrient content and structure/function claims are substantiated and consistent with applicable FDA regulations;
- Engaging in compliance review early in the product development and marketing processes, especially when piloting wellness-oriented language or formulations;
- Retaining internal documentation demonstrating a good-faith basis for marketing claims; and
- Monitoring litigation trends and evolving regulatory guidance, including FDA rulemaking and public reports, to identify emerging litigation threats.

Conclusion

While Davidson offers a valuable tool for early dismissal of speculative claims, a proactive compliance and litigation-readiness posture remains essential in today's environment of heightened regulatory and consumer scrutiny.

By combining thoughtful risk assessment with disciplined labeling practices, manufacturers can reduce exposure and strengthen their defenses against opportunistic claims.

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[1] Food Labeling: Nutrient Content Claims; Definition of Term "Healthy," 90 Fed. Reg. 10592 (Feb. 25, 2025) (to be codified at 21 CFR pt. 101).

[2] Make America Healthy Again Comm'n, The MAHA Report: Make Our Children Healthy Again Assessment at 22–28 (May 22, 2025).

[3] Davidson v. Sprout Foods, No. 22-cv-1050, 2022 WL 13801090, at *1 (N.D. Cal. Oct. 21, 2022).

[4] Id.

[5] Davidson v. Sprout Foods, 106 F.4th 842, 853 (9th Cir. 2024), cert. denied, 2025 WL 1151232 (April 21, 2025).

[6] Id. at 852–53.

[7] Davidson, 2022 WL 13801090, at *3.

[8] Davidson, 106 F.4th at 853.

[9] Id.

[10] Id.

[11] Id. at 847–52.

[12] Id.

[13] Howard v. Gerber Prods. Co., No. 22-cv-4779, 2024 WL 5264036, at *1 (N.D. Cal. Dec. 31, 2024). Disclosure: The lead author represented the defendant in this case.

[14] Id.

[15] Howard v. Hain Celestial Grp. Inc., No. 22-cv-527, 2022 WL 11044721, at *3 (N.D. Cal. Oct. 19, 2022).

[16] Howard v. Hain Celestial Grp. Inc., No. 22-cv-527, 2025 WL 416160, at *2 (N.D. Cal. Feb. 5, 2025) (citing Davidson, 106 F.4th at 853), appeal filed, No. 25-1919 (9th Cir. Mar. 24, 2025).

[17] In re: Pacific Market Int'l LLC Stanley Tumbler Litig., 764 F. Supp. 3d 1026, at 1032, 1037 (W.D. Wash. 2025).

[18] Id. at 1037–39

[19] In re: Nurture Baby Food Litig., No. 1:21-cv-1217, 2025 WL 918927, at *1–4 (S.D.N.Y. March 26, 2025).

[20] Id. at *8, *13 n.10.

[21] E.g., Gibson v. Conagra Brands Inc., No. 1:25-cv-2413 (E.D.N.Y., filed May 1, 2025).

[22] E.g., Daniels v. Ahold Delhaize USA Inc. and Food Lion LLC, No. 1:24-cv-876 (M.D.N.C., filed Oct. 22, 2024).

[23] E.g., Sarayli v. Huel Ltd., No. 5:25-cv-2406 (N.D. Cal., filed March 10, 2025).