BCLP. Client Intelligent

News

NEW DEVELOPMENTS IN PRODUCT-LIABILITY LAW: RECENT DECISIONS ADDRESS EXPRESS AND IMPLIED PREEMPTION

Jul 31, 2024

BCLP Counsel Andrew Tauber recently posted two articles on *Drug and Device Law*, the country's preeminent blog on pharmaceutical and medical-device law. The articles analyze two recent decisions addressing the preemption of state-law claims under the Food, Drug and Cosmetic Act.

The first article details the Ninth Circuit's decision in *Davidson v. Sprout Foods, Inc.*, in which the court held that the FDCA does not impliedly preempt food-labeling claims brought under California's Sherman Law. In the article, Andy explains that *Davidson* conflicts with both Supreme Court precedent and prior Ninth Circuit law.

The second article discusses *Dickson v. Dexcom, Inc.*, a path-breaking district-court decision holding that the FDCA expressly preempts product-liability claims implicating Class II devices that received "de novo classification." Andy explains how the decision departs from prior cases and why it is important to medical-device manufacturers.

RELATED PRACTICE AREAS

- Mass Torts & Product Liability
- Consumer Products
- Retail & Consumer Products
- Pharmaceutical & Medical Devices (Mass Torts)
- Pharmaceutical & Medical Devices (Class Actions)

MEET THE TEAM

Andrew Tauber

Washington

andrew.tauber@bclplaw.com
+1 202 508 6111