

# Coca-Cola Loses Supreme Court Case vs. Pom Wonderful

SAM HANANEL, Associated Press

WASHINGTON (AP) — The Supreme Court on Thursday sided with juice maker Pom Wonderful in its long-running false advertising dispute with Coca Cola, a decision that could open the door to more litigation against food makers for deceptive labeling.

The justices ruled 8-0 that Pom can go forward with a lawsuit alleging the label on a "Pomegranate Blueberry" beverage offered by Coke's Minute Maid unit is misleading because 99 percent of the drink consists of apple and grape juice.

Lower courts had ruled in favor of Coke because the label conforms to Food and Drug Administration laws and regulations. But the Supreme Court reversed, finding that the juice label may technically comply with FDA rules but still be misleading to consumers for different reasons.

Writing for the court, Justice Anthony Kennedy said federal FDA laws and trademark laws complement each other in the regulation of misleading labels. He said it is unlikely Congress intended FDA law to preclude all trademark actions in the food and beverage arena because that would mean "less policing" of misleading labels than in other industries.

Justice Stephen Breyer took no part in the case.

Pom filed its lawsuit in 2008 after it began losing market share to Minute Maid's "Pomegranate Blueberry Flavored Blend of 5 Juices" drink. The drink's label shows the words "Pomegranate Blueberry" in much larger type than the rest of the phrase and includes a prominent picture of large pomegranate set among other fruits. Pom complained that the product actually contained only 0.3 percent pomegranate and 0.2 percent blueberry juice.

The 9th U.S. Circuit Court of Appeals ruled in favor of Coke, finding that food labeling laws preclude private lawsuits under trademark law.

The food and beverage industry had expressed concerns that a ruling for Pom would lead to greater uncertainty about labeling requirements and lead to a flurry of new lawsuits.

Coke's lawyer claimed during oral arguments that it would be a "logistical nightmare" for food companies to have to change labels in response to every private lawsuit. The beverage giant says the federal government — not competitors — should be enforcing uniform label requirements.

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