How Cos. Can Prep For Ultra-Processed Food Legal Risks

By **Bettina Jendrek and Kayla Hill-Jones** (July 10, 2026)

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In late 2024, a Philadelphia plaintiff **filed** Martinez v. The Kraft Heinz Co. in the U.S. District Court for the Eastern District of Pennsylvania — widely viewed as the first major lawsuit alleging that ultra-processed foods, or UPFs, cause chronic disease.

The complaint alleged that major food manufacturers caused him to develop Type 2 diabetes and nonalcoholic fatty liver disease through the manufacture and marketing of UPFs.[1]

That filing marked the beginning of a litigation wave that is now gaining momentum, with additional private actions and government enforcement efforts following closely.

The progression from scientific concern to litigation exposure is not new. Similar patterns have emerged across multiple industries where evolving public health narratives have ultimately given rise to coordinated litigation and regulatory scrutiny.

Food companies that recognize those patterns early will be better positioned to manage the increasing scrutiny surrounding UPFs.

This article surveys the emerging UPF litigation landscape, references lessons from other waves of industrywide litigation and outlines practical considerations for proactive risk management.

In particular, we focus on the personal injury theories currently being advanced in UPF litigation — and the central role that causation and regulatory definitions are likely to play in shaping the trajectory of future litigation.

From Narrative to Liability: Managing Legal Risk in an Evolving Landscape

The Case for Early Risk Management

For food companies, one of the most important lessons from litigation in other heavily scrutinized industries — e.g., tobacco, social media and online gaming — is that legal risk is shaped long before lawsuits are filed.

Internal governance, research protocols, marketing practices and document creation habits adopted before litigation begins frequently become the evidentiary record that plaintiffs and regulators later scrutinize.

The Los Angeles County Superior Court's March **jury verdict** in K.G.M. v. Meta Platforms illustrates the point. Liability turned in significant part on internal documents that the plaintiffs argued demonstrated corporate awareness of youth vulnerability on social media platforms that was not reflected in public communications.[2]

For UPF companies, that risk is amplified by a growing public health narrative that characterizes UPF consumption as a systemic harm rather than an individual one. The

current environment therefore presents an important opportunity for proactive risk management.

The Current UPF Environment

The UPF landscape has now entered a crucial stage. Private litigation is underway, government actors are increasingly engaged and regulatory definitions remain in development. To date:

- At least 12 states have enacted legislation subjecting certain dyes and additives associated with UPFs to restrictions or prohibitions, primarily in school meals, with some states enacting broader statewide prohibitions or warning label requirements;
- California's A.B. 1264[3] and Arizona's H.B. 2164[4] have established statutory UPF definitions in certain contexts;
- Nine personal injury lawsuits alleging disease caused by UPF consumption have been filed in federal courts;[5]
- In December 2025, San Francisco **filed** City of San Francisco v. The Kraft Heinz Co., a government enforcement action alleging that UPF manufacturers violated California's Unfair Competition Law and created a public nuisance, in San Francisco County Superior Court;[6]
- In July 2025, the U.S. Food and Drug Administration and the U.S. Department of Agriculture issued a joint request for information, seeking input on a federal definition of UPFs;[7] and
- The 2025 Dietary Guidelines for Americans for the first time expressly encouraged consumers to reduce consumption of highly processed foods.

The volume of state-level regulatory activity, coupled with the broader policy focus associated with the Make America Healthy Again movement, has created significant uncertainty for the food industry.

Until the FDA-USDA definitional process is resolved, companies face the possibility of operating against shifting regulatory and litigation standards.

Product formulations, labeling decisions and marketing claims that comply with today's current requirements may later become the subject of failure-to-warn or deceptive marketing allegations under changing standards.

Companies should therefore evaluate current product development and marketing decisions with an understanding that the government regulatory framework remains unsettled, and may materially affect both litigation exposure and long-term product strategy.

The Emerging Litigation Landscape

The Martinez Case: Filing, Dismissal and What Comes Next

Martinez v. Kraft Heinz Co. was filed in the Eastern District of Pennsylvania in December 2024 against 11 major manufacturers, including Kraft Heinz, the Coca-Cola Co., PepsiCo

Inc., General Mills Inc., Nestle SA, Mars Inc. and Mondelez International Inc.[8]

The complaint asserted claims for negligence, breach of warranty, fraudulent misrepresentation and concealment, unfair trade practices, and conspiracy.

In August 2025, U.S. District Judge Mia Perez **dismissed** the complaint on specific causation grounds, holding that the plaintiff failed to allege with sufficient particularity which products he consumed, in what quantities and over what time period.

Although the court dismissed the complaint, it observed that it was "deeply concerned about the practices used to create and market UPFs, and the deleterious effect UPFs have on children and the American diet." Martinez's motion to amend was denied in June.

The subsequent UPF complaints filed in the wake of the Martinez case attempt to cure these deficiencies by identifying the specific brands and products consumed, the relevant time periods of consumption, and the frequency of consumption.

However, in denying Martinez's proposed amended complaint, the Pennsylvania court explained that the "law requires more than correlation — it requires causation."

Causation: The Central Issue

Causation is likely to remain the central challenge for individual UPF personal injury claims, and the recent order denying Martinez's amended complaint highlights the unique hurdles that these cases present.

First, scientific literature is increasingly attempting to link the consumption of UPFs to various chronic diseases like hypertension, nonalcoholic fatty liver disease and Type 2 diabetes.

But the research remains contested and does not yet reflect the degree of scientific consensus that courts expect in complex product liability litigation.[9]

As explained by the Martinez court, the plaintiff's reliance on scientific studies showing a correlation between increased consumption of UPFs and disease did "not amount to causation attributable to each of the 179 products Martinez consumed."

Second, the court held that the amended complaint failed to adequately plead but-for causation — i.e., that the alleged harm would not have occurred absent the conduct of a particular defendant.

Because Martinez's allegations of "increased risk," "biological plausibility" and "association" were asserted interchangeably across all 179 products, regardless of the specific additive or ingredient at issue, the court concluded that eliminating any one defendant or product would not alter the alleged causal chain.

Finally, the court rejected Martinez's attempt to rely on alternative liability and market-share liability theories, which in limited circumstances permit plaintiffs to proceed against multiple defendants when the specific source of the injury cannot be identified.

The court explained that both doctrines require fungible or chemically identical products — a requirement UPFs cannot satisfy because the "[d]efendants' products each contain different harmful chemicals" and the amended complaint did not allege that each product was equally

harmful.

The decision therefore forecloses a significant avenue plaintiffs might otherwise have pursued to avoid pleading and proving product-specific causation in future multidefendant UPF litigation.

The multifactorial nature of the diseases alleged further complicates efforts to isolate UPF consumption as a legally sufficient causal factor. As the Martinez court itself noted in its dismissal of the case, the conditions at issue "have a multitude of causes."[10]

The ubiquity of UPF consumption also presents an evidentiary challenge. According to 2025 Centers for Disease Control and Prevention data, UPFs account for more than 50% of adult caloric intake and more than 60% of children's caloric intake in the U.S. That prevalence makes it difficult to meaningfully construct comparison groups or isolate exposure to specific products.[11]

At the same time, the absence of a universally accepted scientific definition of "ultra-processed food" presents a critical threshold issue with significant legal implications. California's A.B. 1264 provides a statutory definition in the school meal context, but no generally applicable tort standard currently exists.

The ongoing FDA-USDA definitional process may therefore assume outsized significance in future litigation and regulatory enforcement. Companies should closely monitor this process and carefully evaluate whether and how to participate in public comments.

Internal Risk Management: What Food Companies Should Be Doing Now

The most consequential risk management decisions for food companies are unlikely to occur in the courtroom. They are occurring now in research and development, marketing, regulatory affairs, and corporate governance.

Auditing Advertising and Labeling Claims

As the scientific and regulatory landscape evolves, marketing and labeling claims may acquire increasing legal significance.

California's Unfair Competition Law, which forms the basis of the San Francisco enforcement action, allows government plaintiffs to pursue deceptive marketing claims without establishing that any particular product caused a specific injury.

Companies should therefore consider conducting systematic, privilege-protected reviews of advertising and labeling materials across all platforms, including archived content. Particular attention should be paid to:

- Claims referencing science or health benefits;
- Additive-specific claims involving ingredients currently under regulatory scrutiny;
- Comparative nutrition representations; and
- Marketing directed specifically toward children and adolescents.

Importantly, companies should assess not only whether claims are technically accurate under current standards, but also how claims may later be characterized in litigation as scientific and regulatory understandings continue to evolve.

Governing How Research and Development and Scientific Affairs Discuss Products Internally

Internal communications routinely become central evidence in complex product liability litigation. Companies should therefore review protocols governing communications, scientific review processes and document creation practices.

Particular attention should be paid to the terminology used in product development and marketing discussions. For example, employees should be accurate and careful in how they discuss particularly sensitive topics, as internal communications may acquire different significance in litigation.[12]

Companies should also evaluate governance surrounding industry-funded research, scientific advisory relationships and trade association activity, as positions advanced by trade groups may later be attributed to member companies.

Evaluating Children's Marketing Practices

Marketing directed toward children is likely to remain among the most legally and reputationally sensitive aspects of emerging UPF practices.

The filed complaints devote substantial attention to targeted youth marketing allegations and frequently invoke the same developmental vulnerability framework advanced in social media litigation.

Compliance with Federal Trade Commission standards and voluntary industry frameworks remains important.[13] But this may not fully insulate companies from evolving litigation theories.

Companies should assess whether internal marketing strategy documents would withstand scrutiny not only from regulators, but also from juries and the public.

Addressing Regulatory Uncertainty in Product Strategy

The unsettled regulatory definition of UPFs presents both a legal and product strategy challenge. Companies should assess product portfolios against existing and emerging classifications, including the Nova classification scale and California's A.B. 1264.

Products that fall within multiple overlapping definitions may face heightened litigation and regulatory exposure. Companies considering reformulation strategies should document decision-making carefully and under privilege, where appropriate.

Conclusion

UPF litigation is poised for continued expansion. The first major personal injury action has been filed and is pending amendment following dismissal on causation grounds, while government enforcement activity has also begun.

At the same time, the FDA and USDA are engaged in an ongoing definitional process that may significantly influence how courts, regulators and litigants evaluate UPF-related claims going forward.

That process is likely to affect not only litigation theories, but also product development, labeling and marketing practices across the food industry.

For companies operating in this space, immediate priorities include reviewing advertising and labeling claims, assessing product portfolios against emerging regulatory definitions, evaluating internal scientific and R&D communication protocols, and reviewing children's marketing practices.

As prior industrywide litigation has demonstrated, the documentary record created before litigation matures often becomes one of the most consequential determinants of legal and reputational exposure later on.

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[1] Martinez v. The Kraft Heinz Co. et al., Case No. 2:25-cv-00377 (E.D. Pa., dismissed Aug. 25, 2025).

[2] P.F. (K.G.M.) v. Meta Platforms Inc. & YouTube LLC, No. 23SMCV03371, JCCP 5255 (L.A. Super. Ct., verdict March 25, 2026). See Bobby Allyn, Jury Finds Meta and Google Negligent in Social Media Harms Trial, NPR (March 25, 2026), https://www.npr.org/2026/03/25/nx-s1-5746125/meta-youtube-social-media-trial-verdict ("KGM's legal team showed the jury internal documents from Meta in which CEO Mark Zuckerberg and other executives described the company's efforts to attract and keep kids and teens on its platforms. One document said: 'If we wanna win big with teens, we must bring them in as tweens.' Another internal memo showed that 11-year-olds were four times as likely to keep coming back to Instagram, compared with competing apps, despite the platform requiring users to be at least 13 years old").

[3] California Assembly Bill 1264, signed Oct. 8, 2025; Cal. Health & Safety Code.

[4] H.B. 2164, 57th Leg., 1st Reg. Sess. (Ariz. 2025).

[5] See Martinez v. The Kraft Heinz Co. et al., No. 2:25-cv-00377 (E.D. Pa., dismissed Aug. 25, 2025); Ford v. The Kraft Heinz Co. et al., No. 3:26-cv-77 (E.D. Ark. Filed on March 5, 2026); Sanford v. The Kraft Heinz Co. et al., No. 7:26-cv-1430 (S.D.N.Y. Filed on Feb. 19, 2026); Lawton, v. Kraft Heinz Co. et al., No. 1:26-cv-44 (S.D. Miss. Filed on Feb 12, 2026); Muthusami v. The Kraft Heinz Co. et al., No. 6:26-cv-113 (M.D. Fla. Filed on Jan. 16, 2026); Jenkins v. The Kraft Heinz Company et al., No. 2:26-cv-115 (E.D. La. Filed on Jan. 16, 2026); Kreie v. The Kraft Heinz Co. et al., No. 1:26-cv-00738 (E.D. Wis. Filed on April 27, 2026); Morris V. The Kraft Heinz Co. et al., No. 1:26-cv-199 (S.D. Ala. Filed on June 4, 2026).

[6] City of San Francisco v. The Kraft Heinz Co. et al., originally Case No. CGC-25-631189 (Cal. Super. Ct.), removed, Case No. 4:26-cv-00183 (N.D. Cal.).

[7] FDA-USDA Joint Request for Information, 90 Fed. Reg. 35305 (July 25, 2025).

[8] Supra note 1.

[9] Andrew A. Bremer, et al., NIH-FDA Nutrition Regulatory Science Workshop: advancing research and policy Vol. 123, Issue 5 Am. J. Clinical Nutrition p. 2-3 (2026), https://www.sciencedirect.com/science/article/pii/S0002916526000766.

[10] Diet, genetics, socioeconomic conditions, exercise patterns, environmental factors, and other lifestyle variables may all contribute to the development of these diseases. See Martinez v. Kraft Heinz Co., No. 2:25-cv-00377, slip op. at 4, N 1 (E.D. Pa. Aug. 2025) (quoting S.F., 2014 WL 1600414, at *4 ("Type 2 diabetes is a multifactorial disease. It can be caused by, for example, a lack of exercise, genetics, or poor diet — or some combination of several factors. No expert opinion is required to arrive at this conclusion")); id. (citing Compl. ¶¶ 310, 312 (citing Centers for Disease Control and Prevention, New Research Uncovers Concerning Increases in Youth Living with Diabetes in the U.S. (Aug. 24, 2021), available at https://archive.cdc.gov/www_cdc_gov/media/releases/2021/p0824-youth-diabetes.html)).

[11] Brian Tsai, How Much Ultra-Processed Food Are People Eating in the United States?, CDC NCHS Blog (Aug. 7, 2025), https://blogs.cdc.gov/nchs/2025/08/07/7825/.

[12] See, e.g. Ford v. The Kraft Heinz Co., et al., 3:26-cv-77 (E.D. Ark. Filed on March 5, 2026) (alleging that defendants are aware of the addictive nature of UPFS have "have exploited it through their research, design, and marketing efforts to drive excess consumption").

[13] BBB Nat'l Programs, Children's Food & Beverage Advertising Initiative (CFBAI), https://bbbprograms.org/programs/children/cfbai.