Single-Use Plastic Packaging/Buffalo River (New York): New York Attorney General Files Judicial Action Against PepsiCo, Inc., Alleging Environmental Harm

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New York Attorney General Letitia James ("AG") filed a November 15th Complaint in the Supreme Court of the State of New York (County of Erie)("Court") against PepsiCo, Inc., Frito-Lay, Inc., and Frito-Lay North American, Inc. (collectively, "PepsiCo") alleging harm to the public and the environment caused by its single-use plastic packaging ("Single-Use Plastic").

The Complaint alleges that Single-Use Plastic manufactured by PepsiCo contributes significantly to what it describes as high levels of plastic pollution along the Buffalo River in New York.

The Complaint alleges that:

- Single-Use Plastic beverage bottles, bottlecaps, and snack food wrappers manufactured, distributed, and sold by PepsiCo are collectively the most abundant forms of plastic waste along the shores of the Buffalo River.
- Plastic does not biodegrade in the environment but fragments into microplastic or nano plastic.
- The Buffalo River and public water supplies, along with public health, freshwater species, and the ecosystem are alleged to be endangered.
- A survey of plastic in the Buffalo River conducted by the AG in 2021 is stated to have indicated Pepsico's plastic packaging exceeded other sources of identifiable waste.
- PepsiCo's bottled beverages are stated to represent approximately 20% of the retail market for comparable beverages sold in the United States.
- PepsiCo has failed to abate the harm or warn the public that its plastic packaging is a potential source of plastic pollution.

Causes of action alleged in the Complaint include:

- Public Nuisance
- Strict Products Liability: Failure to Warn
- Violation of New York General Business Law § 349
- Repeated and Persistent Illegality in Violation of New York Executive Law § 63(12)

A copy of the Complaint can be downloaded here.