

## Azer, Letourneau and Van Osselaer in Law360: Leveraging Insurance Amid Microplastics Concerns

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May 16, 2024 Adrian Azer, Reese Letourneau, Andrew Van Osselaer

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PRACTICES Insurance Recovery, Chemical

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Haynes Boone Partner [Adrian Azer](#) and Associates [Reese Letourneau](#) and [Andrew Van Osselaer](#) authored an article for *Law360* explaining that any company potentially addressing microplastics liability should include a careful assessment of the potential for coverage in its due diligence.

Read an excerpt below.

New York Attorney General Letitia James recently sued PepsiCo Inc. in the Supreme Court of the State of New York, Erie County, in *People of the State of New York v. PepsiCo Inc.*, alleging that the manufacturer's use of single-use plastic has caused harm to the Buffalo River.

The presence of plastic products allegedly resulted in the introduction of harmful microplastics into the environment. The complaint also alleges that the company misled customers with respect to its efforts to combat plastic pollution and has failed to provide adequate warnings of the risks of harm to human health and the environment, despite its alleged awareness of these risks.

As a result, the complaint seeks various forms of relief, including damages, injunctions and declarations surrounding the company's contributions to plastic — and microplastics — pollution in the environment and the resulting harm. On Feb. 16, PepsiCo filed a motion to dismiss the claims brought by James, and the attorney general's office opposed the motion on April 20.

Of course, companies creating and selling beverages in plastic bottles are only one group of the many companies that rely heavily on the use of plastics. Growing public concern regarding microplastics suggests that the New York case may be only a first glimpse at what is to come.

For those companies looking to navigate the potential risks and liabilities associated with microplastics, they do not need to guess what may be. It seems likely that microplastics liabilities would develop along the same lines as we have seen with substances like per- and polyfluoroalkyl substances and even asbestos, making those instances helpful for parsing what lies ahead.

One common thread among those examples — both recent with PFAS and historic with asbestos — has been certain companies' success in leveraging insurance to help weather the storm. As such, any company considering how to address microplastics liability should include a careful assessment of the potential for coverage in its due diligence.

To read the full article on *Law360*, click [here](#).