

Katten ESG Guidepost



2024 Has Been a Momentous Year for ESG

By Johnjerica Hodge, India Williams, Nicholas Gervasi

Over the course of 2024, there have been significant developments in the environmental, social and governance landscape — including new legislation, evolving global frameworks, continued litigation and enforcement actions, and US Supreme Court decisions with the potential to affect ESG initiatives. [Read more as we delve into a selection of these major developments.](#)



Fifth Circuit Strikes Down Board Diversity Rules in En Banc Decision

By Johnjerica Hodge, India Williams, Ny'eshia Young

In a 9-8 *en banc* decision, the US Court of Appeals for the Fifth Circuit blocked the Nasdaq board diversity rules, ruling that the Securities and Exchange Commission (SEC) lacked the authority to approve the rules. Under the board diversity rules, companies were required to: (1) disclose the self-identified gender, race, and sexual orientation of their board of directors; and (2) include at least one self-identified female and at least one racial minority or member of the LGBTQ+ community on their board of directors, or explain why they do not have at least two directors that comply with the rules. The SEC approved the board diversity rules. Similar to the board diversity rules adopted in California, the Nasdaq board diversity rules were challenged in court. [Read about the Fifth Circuit Court's decision.](#)

Plastic Pollution Case Dismissed

By Chris Cole

In an important decision regarding plastic recycling and disposal, the New York Supreme Court has dismissed the NY Attorney General's lawsuit against Pepsico for allegedly contributing to plastic pollution in New York waterways. The high-profile case is one of several currently pending in which Plaintiffs allege that makers of single-use plastic containers are responsible for contributing to plastic pollution. [Read about the Pepsico decision.](#)



What the Evian 'Carbon-Neutral' Ruling Means for Advertisers

By Catherine O'Brien

In a notable environmental, social and governance (ESG) ruling, US District Judge Nelson Roman dismissed a class action lawsuit against Danone Waters of America that had alleged the company deceptively labeled its Evian bottled water as "carbon-neutral." This dismissal is the result of the court's reconsideration of its partial denial of Defendant Danone Waters of

America's motion to dismiss. The Evian water bottle labels in question featured a "Carbon Neutral" claim along with the "Carbon Trust" logo, a third-party environmental certification agency that follows the international PAS standard for determining carbon neutrality. [Read about the Evian ruling.](#)

Brigitte Weaver Discusses the Rigorous Compliance Demands of the EU's CS3D With FinOps Report

Employment Litigation and Counseling Senior Associate Brigitte Weaver spoke with *FinOps Report* about the EU's new Corporate Sustainability Due Diligence Directive (CS3D), which mandates that financial firms and other businesses operating in the EU enforce human rights, biodiversity and environmental standards throughout their supply chains. Brigitte highlighted the differences between the UK's Modern Slavery Act and the CS3D, stating, "Unlike the CS3D, the UK's Modern Slavery Act does not require firms to actually perform due diligence on suppliers. Firms only have to report on what actions they have or have not taken." [Read about Brigitte's comments.](#)





Breaking News: Federal District Court Halts Corporate Transparency Act Enforcement Nationwide

By Scott Vetri, Phillip Koh, Alex Haddad, Michael Sherlock, Walter Weinberg, Alexander Lovrine, Andrew Jagoda, David Matthews

On December 3, the US District Court for the Eastern District of Texas granted a nationwide preliminary injunction prohibiting the federal government from enforcing the Corporate

Transparency Act (CTA), its implementing regulations and its reporting deadlines. The CTA requires a Reporting Company to file a report with the US Treasury Department's Financial Crimes Enforcement Network (FinCEN), which contains specified information regarding itself and its beneficial owners. [Read Katten's advisory.](#)

California Regulator Opens Comment Period for Latest Round of Privacy Regulations

By Trisha Sircar

On November 22, the California Privacy Protection Agency (CPPA) opened the formal public comment period for its latest proposed rulemaking package. The package includes updates to existing regulations and proposed regulations for cybersecurity audits, risk assessments, automated decision-making technology (ADMT) and insurance companies.

[Read about proposed CCPA updates.](#)



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