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## **Kellogg Law Suit Opens New Front in War on Obesity**

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**John F. Banzhaf III**

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A new law suit charging cereal giant Kellogg and media conglomerate Viacom with "directly harming kids' health" is only the latest in a growing movement to use legal action against the problem of obesity much like it was used against smoking, says public interest law professor John Banzhaf who started both movements.

This new law suit follows six earlier successful fat law suits which lead to tens of millions of dollars in settlements, major changes in business practices, to bans on certain foods, and even to a public apology, says Banzhaf. In addition, a still-pending children's obesity law suit has been upheld by four different judges.

"Just as lawyers involved in the war on smoking used a wide variety of different law suits, so too are lawyers concerned about obesity using and planning to use a wide variety of legal theories to target many different defendants," says Banzhaf.

The Kellogg law suit charges that: "Nickelodeon and Kellogg engage in business practices that literally sicken our children." [The] "overwhelming majority of food products they market to children are high in sugar, saturated fat, or salt, or almost devoid of nutrients." "Their marketing tactics are designed to convince kids that everything they hear from their parents about food is wrong. It's a multimedia brainwashing and re-education campaign- and a disease-promoting one at that."

This, says Banzhaf, is similar to an earlier law suit brought against the General Foods Corporation. The court there upheld the complaint which, in the court's words, "alleged that defendants' advertising of certain sugared breakfast cereals was fraudulent, misleading, and deceptive." Also named as defendants, along with General Foods, were two advertising agencies -- Benton and Bowles, Inc., and Ogilvy & Mather International, Inc. -- which handled advertising for these cereals, and Safeway Stores, which sold the products.

These two cereal law suits represent one front in the legal war on obesity: suing makers of junk foods. Other fronts in the legal war on obesity include suing fast food companies (including, for example, McDonald's, which has been forced to pay out \$30.5 million in two

different fat law suits); suing companies which misrepresent how fattening their food products are (including "Pirates' Booty" and "Big Daddy's Ice Cream" which paid out about \$10 million); suing companies which fail to make other disclosures (like Oreo Cookies which was forced to reformulate its product); and suing school boards (forcing them to ban junk foods).

Malpractice law suits against physicians who fail to advise patients that they are obese and to warn them of the dangers of obesity; discrimination law suits against insurance companies which force people who maintain a healthy weight to subsidize those who are obese by charging all the same premium, and law suits against school boards and their members for selling sugary soft drinks in schools are also being planned.

Indeed, notes Banzhaf, a major series of class action law suits is about to be filed first in Massachusetts and subsequently in other states. It will target soft drink companies and their bottlers for pressuring schools to sell the soft drinks. But, suggests Banzhaf, such suits will also inevitable involve the school boards also.

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PROFESSOR JOHN F. BANZHAF III  
Professor of Public Interest Law  
George Washington University Law School  
FAMRI Dr. William Cahan Distinguished Professor  
2000 H Street, NW, Washington, DC 20006, USA  
(202) 659-4312 // (703) 527-8418  
<http://banzhaf.net> <http://banzhaf.net/obesitylinks>