

Plastics & Microplastics: Emerging Issues / Potential Litigation



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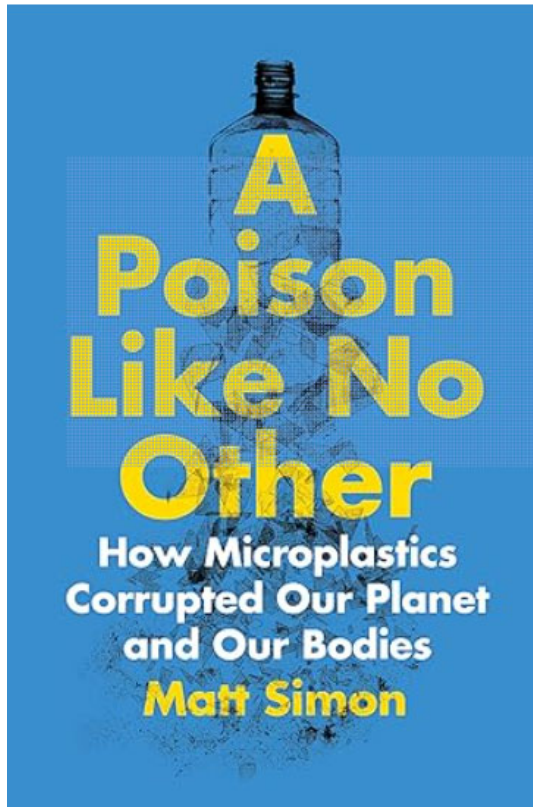
Agenda

- 1. The Problem**
- 2. Growing Public Awareness**
- 3. Timeline**
- 4. Agency Actions**
- 5. Litigation**
 - a. Recycling / Pollution Litigation**
 - b. Greenwashing Litigation**
- 6. Takeaways**

The Problem



Growing Public Awareness



| ENVIRONMENT |



Microplastics are in our bodies. How much do they harm us?

The science is unsettled, but researchers say there is cause for concern.



NEWS

Microplastics Are Everywhere, Including in Our Bodies. Here's What We Know — and Don't Know — About the Impacts

By [Jasmine Garnett](#)  Mar 4  [Save Article](#)



Developing Science



Contents lists available at ScienceDirect

Science of the Total Environment

journal homepage: www.elsevier.com/locate/scitotenv



Detection of microplastics in human lung tissue using μ FTIR spectroscopy

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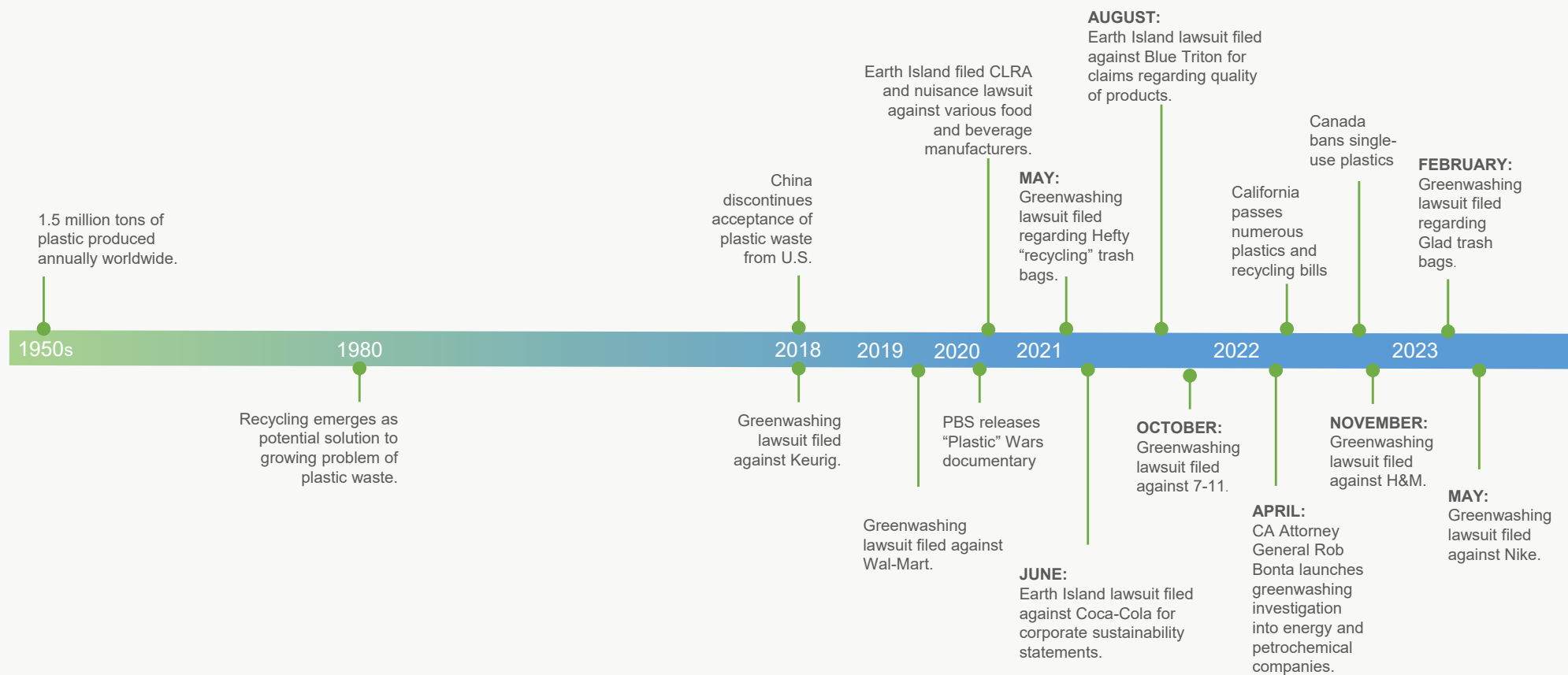
Hawaii study finds alarming increase in microplastics in placentas

By [Mark Carpenter](#)

Published: Dec. 1, 2023 at 8:09 PM EST | Updated: Dec. 1, 2023 at 10:36 PM EST



Timeline



Agency Actions

1. Global

- a. **UNEA Resolution / “Plastic Treaty” (2024)**

2. European Union

- a. **Regulation (EU) 2023/2055 of September 25, 2023, amending Annex XVII of REACH (eff. Oct. 2023)**

3. United States

- a. **Microbead-Free Waters Act of 2015**
- b. **7 states have also banned microbeads; several states banned certain plastic products**
- c. **No EPA regulations yet**

4. Georgia

- a. **Proposed legislation**
- b. **No state regulations yet**
- c. **Several municipalities have banned single-use plastic products**

Three Types of Cases



Nuisance-Based Lawsuits



Localized Pollution Lawsuits



Greenwashing Lawsuits

Greenwashing Litigation

IL: *Curtis v. 7-Eleven*, October 2021, deceptive trade practices as to recyclability of foam cups, plates, party cups and freezer bags. *Dismissed*.

NY: *Duchimaza v. Niagara Bottling*, July 2021, deceptive trade practices as to recyclability of water bottles. *Dismissed and Refiled as to Other Claims*.

DC: *Earth Island v. Coca-Cola*, June 2021, deceptive corporate statements about commitment to environmentalism. *Dismissed*.

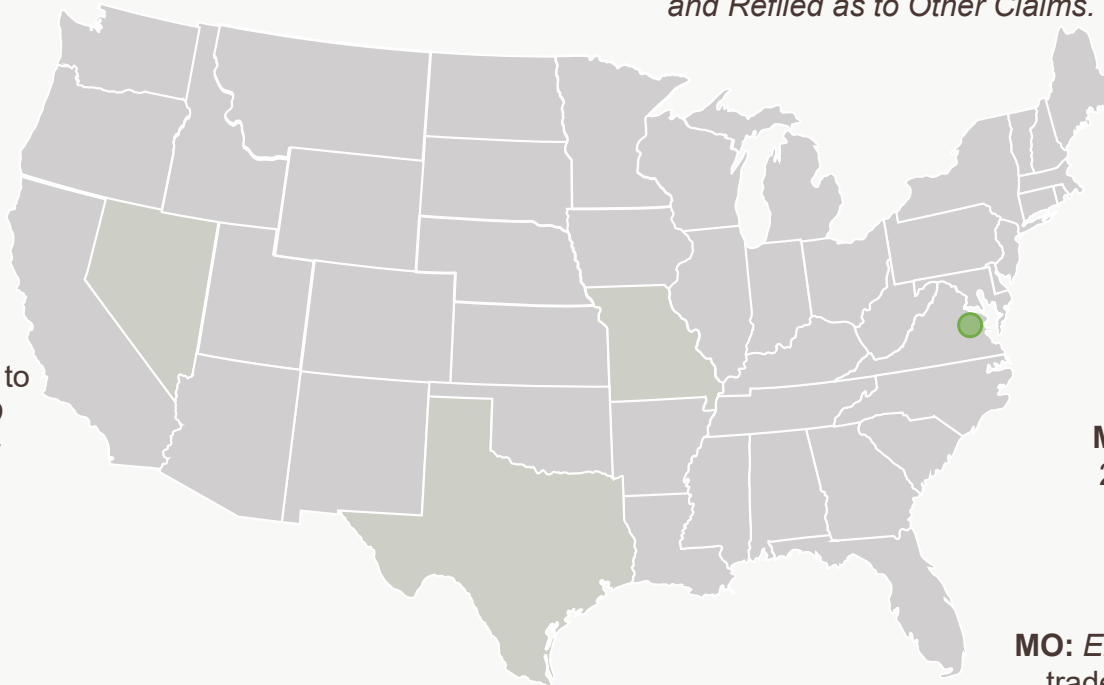
CA: *Swartz v. Coca-Cola*, June 2021, deceptive trade practices as to recyclability of water bottles. *Dismissed*.

CA: *Hanscome v. Reynolds*, deceptive trade practices as to LDPE “recycling” bags. *MTD Denied. Dismissed on Other Grounds*.

DC: *Earth Island v. BlueTriton Brands*, August 2021, deceptive statements about sustainability of current products. *MTD Denied. Ongoing*.

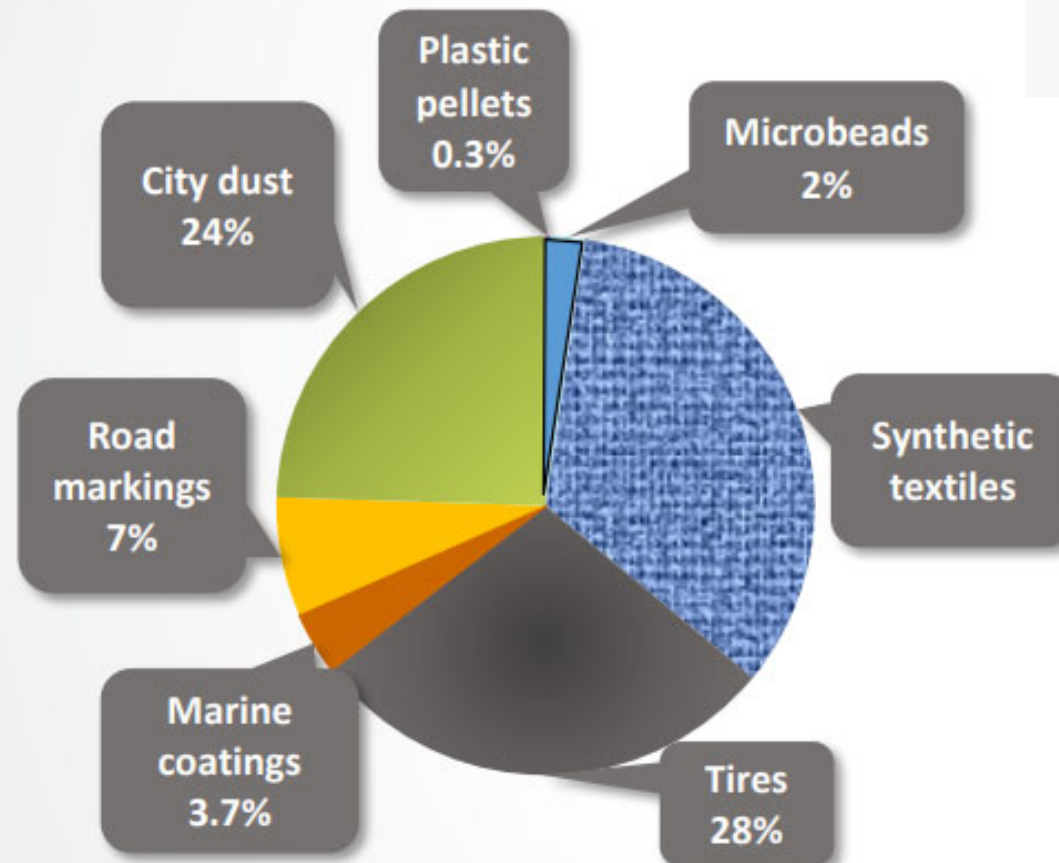
MO: *Lizama v. H&M*, November 2022, deceptive trade practices as to sustainability of recycled clothing line. *Dismissed*.

MO: *Ellis v. Nike*, May 2023, deceptive trade practices as to sustainability of clothing line. *Ongoing*.



Takeaways

EPA Research



Source: International Union for Conservation of Nature and Natural Resources (IUCN) .

Plastics and EJ

California Attorney General Rob Bonta



“Plastic manufacturing itself is highly hazardous to human health, with the pollution burden being primarily borne by low-income communities and communities of color. Plastics manufacturing plants and materials recovery facilities, which are often sited in or near marginalized communities, generate hundreds of millions of tons of toxic air pollution each year. ”

What's Next — More Litigation



“In the near term, we expect claims relating to human exposure to chemical additives to predominate in terms of activity and severity. We expect claims to emerge from environmental damage, and also potentially relating to human exposures to micro and nanoplastics. In addition, further legal action is already building against plastics companies and their directors for misleading behaviors related to their sustainability claims (‘greenwashing’).”

— MINDEROO FOUNDATION, OCTOBER 2022

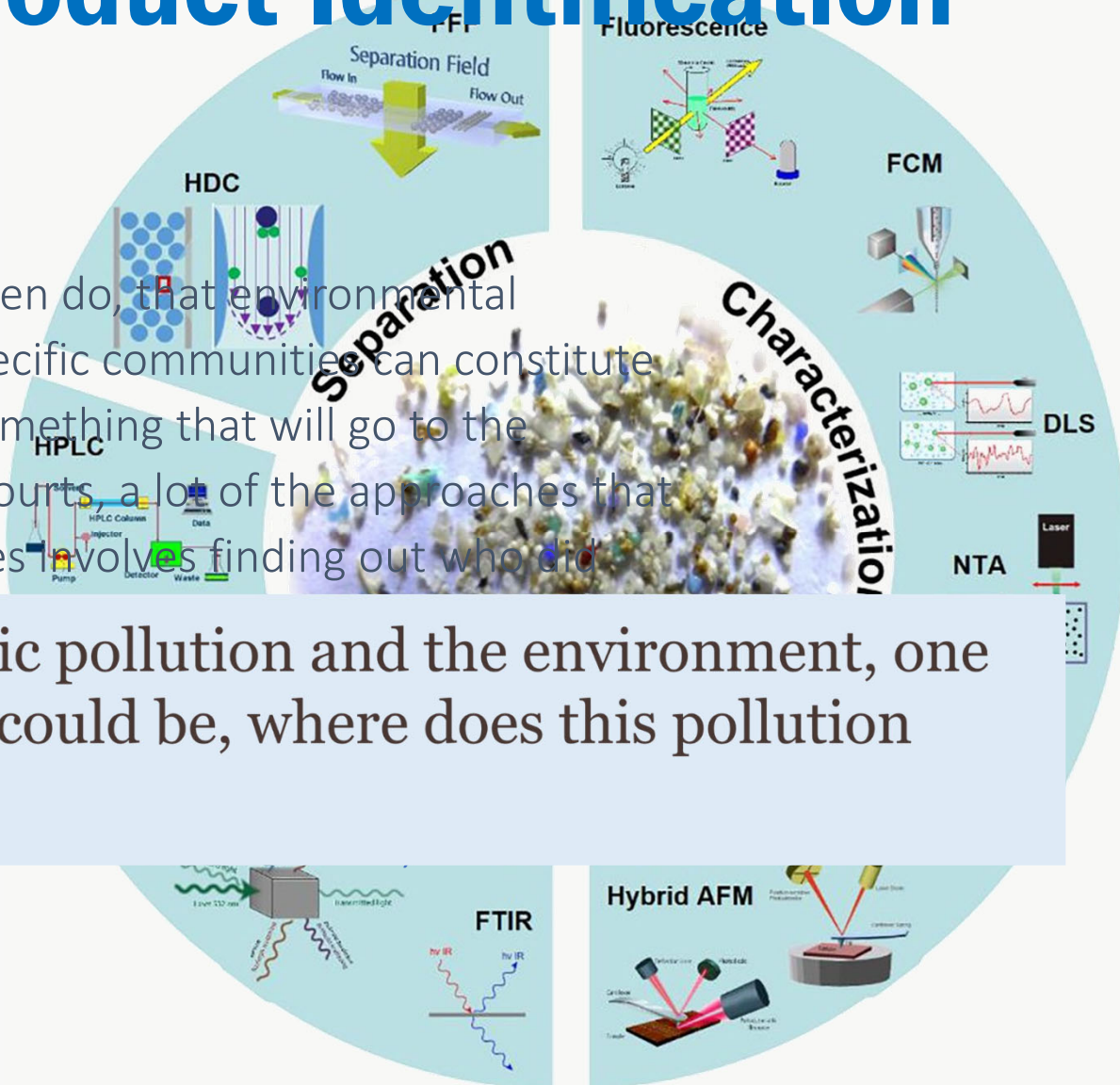
What's Next — Product Identification

“

One can argue, and many often do, that environmental pollution and pollution of specific communities can constitute a crime, but even if it isn't something that will go to the criminal justice system and courts, a lot of the approaches that are being used to solve crimes involves finding out who did

what
of the
from

In terms of plastic pollution and the environment, one of the questions could be, where does this pollution come from?”



Final Takeaways

- 1. Understand your company's products and wastes**
- 2. Keep abreast of the research**
- 3. Keep up with actions of governmental entities (at all levels)**
- 4. Be careful of sustainability claims**
- 5. Be ready to present the company story**



Source:
<https://www.momscleanairforce.org/the-real-story-on-microplastics/>

Questions?

