

Burned by the Label? What Sunscreen SPF Class Actions Mean for Consumer Product Companies

OCTOBER 13, 2026

Authors: [Bryna Dahlin](#), [Hannah Laubach](#)

Featured Practices: [Litigation](#), [Consumer Protection & Class Actions](#)

Featured Industries: [Retail & E-Commerce](#)

Key Takeaways:

- Sunscreen SPF class actions are increasingly hinging on whether plaintiffs can plausibly connect their testing results to the specific products they purchased.
- Courts have generally been receptive to claims based on allegedly overstated SPF values, making standing and product-specific allegations key battlegrounds in defending consumer protection lawsuits.
- Manufacturers should review and maintain thorough SPF testing records, document product consistency across lots and formulations, and monitor developing case law as plaintiffs refine their pleading strategies.

Every sunscreen bottle makes one promise in big type: the SPF number. A growing wave of putative class actions alleges that some of those numbers are well above what the product actually delivers, including cases against Supergoop, La Roche-Posay, Sun Bum and Hawaiian Tropic. So, how much weight can that number bear in court? To answer that, we start with how the FDA requires SPF to be tested and labeled, then look at which claims are surviving motions to dismiss and what it takes to plead them, and finally examine how defense arguments have fared so far.

How SPF is Calculated

Sunscreen is regulated as an over-the-counter drug, not as a cosmetic. Under the CARES Act, its labeling and effectiveness are governed by 21 C.F.R. § 201.327 and the FDA's sunscreen monograph (M020), which prescribes a single SPF test that every product must pass before the number goes on the bottle. For this test, a lab applies the sunscreen at a set thickness to small patches on people's backs, exposes those patches and an unprotected patch to a solar simulator in increasing doses of UV light, and then checks the skin for the faintest visible redness. A subject's SPF is the ratio of the UV dose that reddens protected skin to the dose that reddens unprotected skin.

The FDA also dictates how the results become a label. The panel must produce at least 10 valid results, and no more than three subjects may be rejected, only for reasons the rule lists. The number on the bottle is not simply the panel's average. The FDA requires the manufacturer to conservatively calculate the SPF to account for variation among test subjects.

Perhaps most surprising, the test is required only once per formulation, before the product goes on sale. The FDA does not require batch testing or any confirmatory testing after launch, and it does not pre-approve the label. A sunscreen formula that has been on shelves for decades may still be relying on a test run long ago, which is exactly the opening plaintiffs are exploiting.

The Plaintiffs' Playbook

Plaintiffs build their case by alleging that the manufacturer never ran a compliant test or ran one that came back far below the labeled SPF. State consumer-protection statutes, such as New York's GBL §§ 349/350 and California's CLRA, UCL and FAL, are the core of every complaint.

The theory depends on credible testing by plaintiffs, or, more accurately, plaintiffs' counsel. Plaintiffs allege their tests strictly comply with the FDA protocol and attach the lab report. But a compliant test is not enough. Courts increasingly require plaintiffs to connect the tested bottle to the one they actually bought, looking at how close in time the purchases were, how many samples were tested, whether the units came from more than one order or source, and whether the product was manufactured and distributed uniformly. A handful of bottles bought months apart from the plaintiff's purchase, with no manufacturing facts, is a thin case. Testing the plaintiff's own bottle, or a large multi-lot sample, is far stronger.

Materiality is rarely a problem. SPF is plausibly the reason people buy sunscreen, and consumers cannot check it themselves. Injury is pleaded through a price-premium theory, which courts broadly accept so long as the plaintiff plausibly alleges that his or her own unit was mislabeled.

Put simply, a plaintiff who can (1) tie the testing to the bottle actually purchased and (2) show that the bottle tested materially below the labeled SPF will likely have a viable claim. The cases that have failed so far have generally stumbled on the first step, not the second.

The Defense Playbook

Defendants have thrown a range of arguments at these complaints, from express and implied preemption to primary jurisdiction and attacks on plaintiffs' lab reports, but the one doing the most damage right now is Article III standing.

Express preemption has a mixed record. Defendants win when plaintiffs seek something the FDA does not require, such as disclaimers on high-SPF products, or when the plaintiff's testing does not follow the FDA method. Courts have generally let cases proceed where the plaintiff seeks only what federal law already requires, an accurate SPF, which keeps the claim within the FDCA's savings clause and avoids preemption arguments. The current defense theme is that after-market retesting is itself a requirement the FDA never imposed.

Defendants press implied preemption and the bar on private enforcement hard, but plaintiffs answer that deception claims would exist without the FDCA. Primary jurisdiction has worked mainly in the high-SPF disclaimer context.

Defendants also go after the science. They comb through attached lab reports and flag issues such as a lab setting an “expected SPF” of 20-25 for a product that claims SPF 50 on its label. Plaintiffs call these fact disputes, and courts at the pleading stage have often agreed.

Article III standing is now the dominant defense, and the clearest example is *Dunning v. Supergoop, LLC*, No. 1:23-cv-11242, ECF 48 (S.D.N.Y. Feb. 24, 2026). The court never reached preemption or the merits. Instead, it held that plaintiffs had not plausibly alleged that the bottles they bought were mislabeled. Counsel’s lab had tested only two or three units of each product, all bought in a single order on a single day, months after most of the named plaintiffs’ purchases. The complaint also said nothing about where or how the product was made, and the court called the argument that identical ingredients make those gaps irrelevant “too speculative.” The case was dismissed twice, and the court denied a third amendment. It was not that the amendment would have been futile. The plaintiffs had been on notice of the defect for nearly a year and had already been refused extra time to run new tests.

Other defendants have built their motions to dismiss around the decision, and plaintiffs are calling it an outlier. Expect that fight to dominate the next round of rulings.

What Manufacturers Should Do Now and What Comes Next

For now, standing appears to be replacing preemption as the main gatekeeper. Plaintiffs will not stand still: expect them to test the named plaintiffs’ own bottles, sample multiple lots, and plead manufacturing uniformity in detail. The pending motions to dismiss will show how far courts are willing to take the standing defense. For companies, the best defense is a test file that makes the number on the bottle easy to stand behind.

If you have questions about your SPF testing, labeling or litigation exposure, please reach out to a member of Benesch’s False Advertising & Unfair Competition team. We’re here to help.