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Food & Consumer Packaged Goods Litigation

Court Grants Preliminary Approval of Red Bull Settlement

Careathers v. Red Bull N. Am. Inc., No. 1:13cv369 (S.D.N.Y.): In a putative class action alleging claims under multiple state consumer protection statutes, breach of express warranty, and unjust enrichment, claiming that the defendant falsely marketed its energy drinks by suggesting that they were a superior source of energy beyond caffeine and contained functional benefits that they did not have, the parties moved for preliminary approval of settlement. The proposed terms include: The settlement class consists of all persons who purchased at least one Red Bull beverage dating back to January 1, 2002. Each class member to submit a valid claim will have the choice to receive either a \$10.00 reimbursement or free Red Bull products to be selected by the class member up to a \$15.00 retail value. The defendant will establish a settlement fund of \$13 million in cash and free products—with an initial \$6.5 million being cash, to be supplemented if necessary to satisfy any valid cash claims—and will be used to pay for class administration and notice. Any remnants will be disbursed first in pro rata shares to any valid claimants, or if the remainder is less than \$100,000, then it shall be distributed in cy pres to a charitable organization "mutually agreed upon by the parties." In addition to the settlement fund, the defendant will pay separately for attorneys' fees in an amount not to exceed \$4,750,000, and class representative incentives of up to \$5,000 per representative. The defendant will also withdraw or revise the challenged marketing claims. [Complaint.](#)

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