Blogs
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Food & Consumer Packaged Goods Litigation

Court Enters Partial Dismissal of “Handmade” Claims

Hofmann v. Fifth Generations Inc., No. 3:14-cv-02569 (C.D. Cal.): In this putative class action alleging violations of California's UCL, FAL, and CLRA, as well as negligent misrepresentation based on claims that Defendant falsely calls its product "Tito's Handmade Vodka" when the process is actually highly mechanized, the Court granted in part and denied in part Defendant's motion to dismiss and granted Plaintiff's request for leave to amend. The Court granted Defendant's motion to dismiss with respect to all statutory claims. In doing so, the Court noted that Article III standing requires both that Plaintiff show he was deceived by the product's label into spending money and also that he would not have purchased it but for the alleged deception. In this case, Plaintiff stated only in his cause of action for misrepresentation that he would not have purchased the product but for the alleged deception, he did not do so in the paragraphs that support his statutory claims, thus the court found Plaintiff did not allege sufficient injury-in-fact for the statutory claims. However, the Court granted Plaintiff's request for leave to amend. The Court went on to address several other arguments by Defendant that attempted to challenge the remaining misrepresentation claim or enable the Court to dismiss the complaint without leave to amend. The Court shot each of them down with relative ease, spending some time on Defendant's safe harbor argument, but ultimately finding that it wasn't clear that the Alcohol and Tobacco Tax and Trade Bureau's approval of Defendant's label was sufficient to invoke the safe harbor. *Order.*

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