

## **Court Denies Defendant's Motion for Reconsideration in False Advertising Suit Involving Coffee Pods**

*Suchanek v. Sturm Foods, Inc. et al.*, No. 3:11-cv-565 (S.D. Ill.): In a putative class action alleging violations of eight states' consumer protection statutes, claiming that Defendants falsely represent that their Garden Square coffee products ("GSC") are made of freshly ground coffee, when they are, in fact, instant, the Court denied Defendants' motion for reconsideration of class certification. The motion challenged the Court's finding that Plaintiff had satisfied the predominance requirement set forth in Federal Rule of Civil Procedure 23(b)(3). Defendants argued that the Court had erroneously concluded that liability could be established solely by a finding that a reasonable consumer was likely to be deceived by a representation on the product-at-issue's packaging. In Defendants' view, the Court erroneously granted class certification after failing to consider reliance and causation, elements of Plaintiffs' claims that "must be proved separately" by each individual class member. Had the Court considered these elements, Defendants contended, it would have found that individual issues predominate and denied class certification. The Court rejected Defendants' arguments, after explaining that it understood all aspects bearing on the issue of liability, and had merely used the phrase "liability" as a shorthand reference to avoid continuously restating the cumbersome language associated with the "reasonable consumer" inquiry. The Court apologized for the confusion, but nonetheless declined to reconsider its ruling. The Court also expressed its belief that the reliance/causation issue, while sometimes requiring individual proof, was sufficiently simple in relation to the "reasonable consumer inquiry" that the predominance requirement was satisfied. [Order attached.](#)

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