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Food & Consumer Packaged Goods Litigation

Court Denies Class Certification in “All Natural” Case

Jones v. Conagra Foods, Inc., No. 3:12-cv-1633 (N.D. Cal.): In a putative class action raising claims under California's UCL, FAL, CLRA, and unjust enrichment, plaintiff alleged that 1) defendant's Hunt's tomato products are misrepresented as "100% Natural" or "Free of artificial ingredients & preservatives" when in fact they contain citric acid and/or calcium chloride; 2) defendant's Pam products are misrepresented as "100% Natural" when in fact they contain petroleum gas, propane, propane 2-methyl, and butane; and 3) defendant's Swiss Miss products are misbranded as "Natural Source of Antioxidants" or "Natural Antioxidants are found in Cocoa" when in fact the products fail to meet minimum nutritional requirements. The court denied plaintiff's motion for class certification, explaining that plaintiff's putative class failed to satisfy Rule 23 in several ways. First addressing standing, the court found that one named plaintiff's deposition testimony adequately showed reliance on the alleged misrepresentations to support standing, but that another named plaintiff lacked standing because she admitted that she did not believe that the statements were untrue or misleading and did not believe she or family would enjoy any particular health benefits from the products. With respect to Rule 23(b)(3), the court addressed predominance at length. As to Hunts, the court concluded that individual issues predominated because the labels that class members were exposed to varied by can, size, variety, and time period. So too, the court found that customers' understanding of the word "natural" would vary among individuals. In addition, the court found plaintiffs' materiality expert's declaration that consumers would find the "all natural" labelling material unpersuasive and concluded instead that there were many reasons why a customer might purchase the product. The court applied the same reasoning and found that individual questions predominated in the remaining product classes. Finally, the court rejected plaintiff's expert's approach to damages under *Comcast*, specifically rejecting both the full retail price approach and the expert's regression analysis. [Order](#).

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