

Food for Thought: Consumer Class Action Against Juice Manufacturers Squeezes Through Summary Judgment as District Court Denies Parties' Cross-Motions

February 08, 2016

In re: Simply Orange Juice Marketing and Sales Practices Litigation, No. 4:12-md-2361 (W.D. Mo., Feb. 8, 2016)

The *In re: Simply Orange Juice Marketing and Sales Practices Litigation* consolidated cases are based on allegations that defendants the Coca-Cola Company, Simply Orange Juice Company (a division of Coca-Cola) and Minute Maid Company (a division of Coca-Cola) made false and misleading claims relating to their Simply Orange, Minute Maid Pure Squeezed and Minute Maid Premium orange juices. Specifically, plaintiffs alleged that the terms "100% Pure Squeezed," "Not from Concentrate," "Simply Orange," "Pure," "Natural," and "Honestly Simple," (for the Simply Orange products), "100% Pure Squeezed," "Pure Squeezed" and "Never from Concentrate" (for the Minute Maid Pure Squeezed products); and "100% Pure Squeezed," "100% Orange Juice," and "natural orange goodness" (for the Minute Maid Premium products) are misleading because the juice products at issue are made using a high-engineered artificial flavoring. Plaintiffs' lawsuit, brought on behalf of individual consumers residing in Alabama, California, Florida, Illinois, Missouri, New Jersey, and New York, alleges violation of the consumer protection statutes of multiple states, in addition to various common law claims. The court denied the parties' cross-motions for summary judgment and held that questions of fact "remain as to whether orange essence oil should be considered orange oil or orange essence under the relevant FDA regulations." Furthermore, the court also held "questions remain as to whether the processing of the oil and/or flavor components in all defendants' orange

juice products makes those components into something other than ordinary orange oil or essence which must be disclosed on the products' labels." As a result, the court denied both parties' motions for summary judgment. The court originally heard arguments on the parties' motions for summary judgment in April 2015. At the time, the court entered an order directing the parties to undertake expedited discovery relating to the "modified orange oil add-back" used in the juice products at issue, including its composition and manufacturing by defendants and its third-party suppliers. After discovery was complete on those issues, the parties supplemented their summary judgment motions and the court heard oral arguments. Thereafter, the court issued its ruling denying the motions for summary judgment.

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