

Food for Thought: Caldera v. J.M. Smucker Co.

February 23, 2015

Caldera v. J.M. Smucker Co., No. 12-4936, 2014 WL 1477400 (C.D. Cal. April 15, 2014)

Plaintiff in *Caldera* brought a consumer class action against J.M. Smucker Company on behalf of individuals who purchased Crisco Original Shortening, Crisco Butter Flavor Shortening, and Uncrustables Sandwiches—the packaging of which allegedly misled consumers into believing they were healthy, when, in fact, they contained trans fat. Moreover, Uncrustables contain high fructose syrup. Plaintiff asserted claims for violation of the unlawful, fraudulent, and unfair prongs of the California Business and Professions Code. Furthermore, plaintiff asserted claims for breach of express warranty, breach of implied warranty, and violation of California's False Advertising Law and Consumer Legal Remedies Act. Plaintiff sought to certify four separate classes—one monetary relief and one injunctive relief class for the Crisco products, as well as one monetary relief and one injunctive relief class for the Uncrustables product. The court found that plaintiff failed to satisfy the predominance requirement regarding the monetary relief classes because she failed to establish that damages may be proven on a class-wide basis. Plaintiff sought restitutionary damages, the proper measure of which is the difference between what the plaintiff paid and the value of what she received. Although plaintiff intended to rely on J.M. Smucker's California sales data to prove damages, the court explained that the sales data alone would be an appropriate measure of damages only if no class member received any benefit from the products. Specifically, while restitution may be proven on a class-wide basis by computing the effect of unlawful conduct on the market price of the product at issue, as the court explained, this measure of restitution requires the plaintiff to produce evidence that attaches a dollar value to the consumer impact or advantage to defendant caused by the unlawful business practice. Plaintiff did not offer any evidence showing that damages could be calculated based on the difference between the market price and product's true value. Indeed, by plaintiff's own admission, she received some benefit from the products. She was, therefore, not entitled to a full refund of the purchase price. The court added: "[i]n reality, the true value of the products to consumers likely varies depending on individual consumer's motivation for purchasing the products at issue." Plaintiff also failed to explain why her injunctive relief claims could not be pursued in her individual action. Accordingly, the court denied her motion to certify the

injunctive relief classes and ordered her to show cause why using the class action mechanism was necessary. *Read more significant court decisions affecting the food industry in [Food for Thought: 2014 Litigation Annual Review](#).*

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