

Food for Thought: Ninth Circuit Revives Proposed Class Action Against Convenience Store Regarding Nutritional Content of Private Brand Potato Chips

June 07, 2016

Bishop v. 7-Eleven, Inc., 651 Fed. Appx. 657 (9th Cir. 2016)

Plaintiff Scott Bishop filed a proposed class action against defendant 7-Eleven based on allegations that the convenience store chain's private-label potato chips are deceptive. According to plaintiff, the front of the potato chips package states "0g trans fat" and "no cholesterol," despite the fact that the product actually contains some small amounts of trans fat and cholesterol. Thus, he claimed he would not have purchased the product if defendant had included the disclosure "See nutritional information for fat content" on the package, as required by the U.S. Food and Drug Administration (FDA). The district court dismissed plaintiff's second amended complaint. The Ninth Circuit reversed the district court's decision and held that the district court erred in its finding that plaintiff failed to allege facts sufficient to establish standing under California's False Advertising Law (FAL), California's Consumers Legal Remedies Act (CLRA), and California's Unfair Competition Law (UCL). The Ninth Circuit held that plaintiff had sufficiently alleged actual reliance. The Ninth Circuit held that even if the statements made are "not technically false," they are actionable pursuant to California's consumer protection statutes if they "have a tendency to mislead consumers because the statements fail to disclose or direct the consumer's attention to other relevant information."

Related Practices

[Mass Tort and Product Liability](#)

©2024 Carlton Fields, P.A. Carlton Fields practices law in California through Carlton Fields, LLP. Carlton Fields publications should not be construed as legal advice on any specific facts or circumstances. The contents are intended for general information and educational purposes only, and should not be relied on as if it were advice about a particular fact situation. The distribution of this publication is not intended to create, and receipt of it does not constitute, an attorney-client relationship with Carlton Fields. This publication may not be quoted or referred to in any other publication or proceeding without the prior written consent of the firm, to be given or withheld at our discretion. To request reprint permission for any of our publications, please use our Contact Us form via the link below. The views set forth herein are the personal views of the author and do not necessarily reflect those of the firm. This site may contain hypertext links to information created and maintained by other entities. Carlton Fields does not control or guarantee the accuracy or completeness of this outside information, nor is the inclusion of a link to be intended as an endorsement of those outside sites.