

## **Court Certifies Injunctive Relief Class But Denies Certification of Damages Class**

*Lanovaz v. Twinings North America, Inc.*, No. 12cv2646 (N.D. Cal.): In an action alleging claims under California's UCL, FAL, and CLRA, based on representations on defendant's tea products that they are a "Natural Source of Antioxidants," the court granted in part and denied in part plaintiff's motion for class certification. The court ruled that Rule 23(a)'s requirements had been met, finding that ascertainability had been established, despite the lack of records or receipts to identify purchasers, because the class definition was specific enough to allow plaintiff to identify herself as having a right to recover. The court further held that the commonality and typicality requirements were satisfied because each product in the proposed class definition contained the same "natural source of antioxidants" labeling. The court rejected defendant's argument that the materiality of the allegedly misleading statement needed to be determined on an individualized basis, finding that plaintiff need only establish that the reasonable consumer would attach importance to the phrase, which could be determined on a class-wide basis. The court then went on to certify an injunctive relief class under Rule 23(b) because the labels carried the relevant claims, but denied certification of the monetary damages class. The court found that plaintiff had not presented a sufficient damages model, rejecting the "full refund" model as inappropriate in the restitution context, and finding that plaintiff's expert had not provided a sufficient measure of damages under a "price premium" model because he had no way of linking a difference in price to the antioxidant label. [Order.](#)

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