

Court Rejects Apparent Attempt to Manufacture Standing in Plaintiff's Bid for Reconsideration of Denial of Class Certification

Torrent v. Yakult U.S.A., Inc., No. 8:15-cv-00124 (C.D. Cal.): The Court denied Plaintiff's renewed motion for class certification in this putative class action alleging violations of California's UCL based on the claim that Defendant falsely represents that its probiotic beverages ("Yakult") are beneficial to digestive and immune system health, despite contradictory scientific evidence. The sole named Plaintiff in this action, Torrent initially sought to obtain damages, restitution, a declaratory judgment, and injunctive relief under the UCL on behalf of the putative class. To that end, he moved for class certification under Federal Rules of Civil Procedure 23(b)(1)(A) and 23(b)(2). The Court denied certification, relying heavily on its determination that Torrent lacked standing to pursue injunctive relief. Coverage of the previous order available ([here](#)). Ten days later, Torrent purchased Yakult for the first time in over a year. Shortly thereafter, Torrent filed his renewed motion for class certification, which was supported by a declaration averring his intent to purchase Yakult in the future. Construing the renewed certification motion as one for reconsideration, the Court denied it for failing to meet the requirements set forth in Local Rule 7-18. The Court did not believe Torrent's change of heart was a "new or material fact" warranting reconsideration, because Torrent's intent to make future purchases of Yakult was a fact in Plaintiff's "possession" when the initial certification motion was filed. The Court found Torrent's current assertions ran counter to prior allegations, and rejected Plaintiff's apparent attempt to manufacture standing in direct response to denial of certification by denying the motion for reconsideration. [Order](#).

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