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Food & Consumer Packaged Goods Litigation

Cereal Box Image of Strawberries in Milk Does Not Falsely Convey the Cereal Contains Strawberries

In *Shaker v. Nature's Path Food Co.*, No. 13cv1138 (C.D. Cal.), the court found plaintiffs' allegations implausible where they alleged that the defendant's "Optimum Cinnamon Blueberry Cereal" violated state consumer protection laws because the image on cereal boxes include a picture of the cereal in milk with fresh strawberries. Plaintiffs claimed that the strawberries falsely suggested that the cereal also contained dried strawberries, and the term "Optimum" in the product name implies the cereal is good for "growth, reproduction or other vital processes." The court rejected both claims. First, the court found that no reasonable consumer would believe that a picture of fresh strawberries on a box of cereal titled "Cinnamon Blueberry" would reasonably believe that it also contained dried strawberries. "[T]he large, legible labels on the front of the cereal boxes unmistakably indicate that the product contains blueberries and cinnamon – not strawberries." The court also rejected claims based on the term "Optimum," finding that "any reasonable consumer would understand the word is not a specific and objective representative." [Order](#).

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