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Food & Consumer Packaged Goods Litigation

Certification Granted in “100% Pure” Olive Oils Class Action

Ebin v. Kangadis Food Inc., No. 1:13-cv-2311 (S.D.N.Y.): Plaintiffs alleged warranty claims, fraud and misrepresentation claims, as well as claims under New Jersey's Consumer Fraud Act and New York's GBL section 349 based on defendant's alleged practice of selling olive oil labelled "100% Pure Olive Oil," which in fact contained "olive-pomace oil," "olive-residue oil," or "pomace." The court certified a nationwide class under Rule 23(b)(3) consisting of "all persons in the United States who purchased Capatriti 100% Pure Olive Oil packed before March 1, 2013," as well as New York and New Jersey subclasses. The court found typicality and common questions regarding whether olive-pomace oil was the same as olive oil or viewed the same way by consumers, and whether the packaging negligently misrepresented the products as "100% Pure Olive Oil." It also found common questions on the state based claims to certify the state subclasses, reasoning that each consumer was essentially alleging the same legal theories, arising out of the same course of conduct. Similarly, as to predominance the court found that defendant had made uniform misrepresentations to all class members, and such "standardized misrepresentations established by generalized proof [are] appropriate for class certification." Simultaneous with its grant of summary judgment, the court denied a cross-motion for summary judgment by defendants arguing that the plaintiff had failed to offer sufficient proof of damages. [Class Certification](#). [Summary Judgment](#).

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