

## Court Denies Plaintiffs' Bids for Class Certification in Suits Alleging Tea Company Made Improper Antioxidant Claims

*Khasin v. R.C. Bigelow Inc.*, No. 3:12-cv-2204 (N.D. Cal.): The Court denied Plaintiff's motion for class certification in this putative class action asserting violations of California's UCL, CLRA, and FAL, and raising a claim for unjust enrichment. Plaintiff's fourth amended complaint accuses Defendant of making unlawful health, nutrient content, and antioxidant claims on the packaging of its tea products. The Court declined to certify a class under Rule 23(b), finding Plaintiff lacked standing because it was unlikely that he would be harmed by the product in the future. United States District Judge William H. Orrick found Plaintiff's allegation that he "would consider" purchasing Bigelow tea in the future if the company complied with California law fell short of the standard for demonstrating a future intent to purchase the products. The Court also found Plaintiff had not established a likelihood that he would suffer the same injury alleged in the future. The Court denied Plaintiff's bid for certification under Rule 23(b)(3) after finding each of Plaintiff's three proposed methods for determining class damages lacked merit. Judge Orrick rejected Plaintiff's restitution calculation that called for damages that were essentially the full retail price of the tea, based on Plaintiff's contention that the products were "legally worthless" as label. The Court found it "too implausible to accept" "that consumers gain no benefit [from green tea products] in the form of enjoyment, nutrition, caffeine intake, or hydration[.]" The Court was similarly unmoved by Plaintiff's bid for statutory damages under the CLRA, or alternatively, for nominal damages. Rather, it found Plaintiff had not proved that he suffered any actual damages giving rise to a penalty award under the CLRA, nor had he identified any duty that would allow him and the proposed class to collect nominal damages. [Order](#). The Court issued a substantially identical opinion in the related case, *Victor v. R.C. Bigelow Inc.*, No. 3:13-cv-2976 (N.D. Cal.). [Order](#).

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