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Ninth Circuit Places Hold on Many Lawsuits Seeking Refunds for Allegedly Misleading Food Labels

(Kane v. Chobani, Inc.)

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WASHINGTON, DC—The U.S. Court of Appeals for the Ninth Circuit issued a decision today that places an indefinite hold on a large number of class-action lawsuits filed against food manufacturers whose products allegedly bear misleading labels. The decision to delay proceedings while the Food and Drug Administration (FDA) addresses the labeling issues was a victory for Washington Legal Foundation (WLF), which filed a brief in the case in support of food manufacturers. Although the decision to stay proceedings technically applies only to this case, *Kane v. Chobani, Inc.*, the decision is highly likely to result in similar stays being issued in the scores of similar lawsuits pending in courts within the Ninth Circuit.

Chobani is alleged to have violated California law by including an “only natural ingredients” label on its yogurt, even though the yogurt included color additives that allegedly did not qualify as “natural.” The plaintiffs also allege that the ingredients list misled them because it should have used the term “dried cane syrup” instead of “evaporated cane juice” to more accurately describe the sugars added to the yogurt.

The Ninth Circuit issued its stay in the case based on the “primary jurisdiction” doctrine. The court noted that FDA is undertaking administrative proceedings that are examining use of the terms “natural” and “evaporated cane juice” on food labels. Explaining that FDA bears primary responsibility for establishing rules governing food labels, the Ninth Circuit stayed court proceedings until after FDA completes its review. Scores of cases pending within the Ninth Circuit challenge the use of the word “natural” on food labels; it is highly likely that the stay issued in this case will be extended to all other “natural” cases.

While WLF applauds the decision to stay proceedings, its brief argued that federal courts should ultimately dismiss this and similar labeling lawsuits. WLF argued that there is no evidence that consumers were misled by Chobani’s “natural” and “evaporated cane juice” labeling.

In response to the decision, WLF issued the following statement by Chief Counsel Samp: “This decision ought to help stem the deluge of food mislabeling claims being filed by plaintiffs’ lawyers under California’s Unfair Competition Law. In virtually all of the pending food-labeling suits, including this one, there is no evidence that plaintiffs were injured by the supposed mislabeling they allege. Voters amended the UCL precisely because they wanted to prevent abusive suits filed by individuals uninjured by the business practices to which they object.”

WLF is a public interest law firm and policy center that regularly litigates in support of civil justice reform, to ensure that unwarranted lawsuits do not drive up costs for all consumers.