



Chapter 93A Claim Based on Wesson Oil "100% Natural" Label Allowed to Proceed

Plaintiff Margaret Lee ("Lee"), a purchaser of Wesson brand vegetable oil ("Wesson Oil"), brought a putative class action against Conagra Brands, Inc. ("Conagra"), the manufacturer and distributor of Wesson Oil. Lee alleged that Conagra violated Chapter 93A by labeling Wesson Oil as "100% Natural" despite the fact that it contained genetically modified organisms ("GMOs"). The U.S. District Court for the District of Massachusetts ("District Court") dismissed the complaint on the grounds that the label was not unfair because it conformed to the Food and Drug Administration's ("FDA") labeling policy.

The First Circuit reversed, holding that the complaint plausibly alleged that Wesson Oil's label violated Chapter 93A. The court first took issue with the fact that the District Court had only analyzed whether the conduct at issue was "unfair," without also analyzing whether it was "deceptive." The court stated that the pertinent inquiry under Chapter 93A in this context was whether the Wesson Oil label had the capacity to mislead consumers to believe that the product contained no GMOs.

The court rejected Conagra's argument that the FDA permits GMO products to be advertised as natural, explaining that the FDA has not issued any binding guidance defining "natural." The court went on to state, "Where . . . an agency has issued no binding rule defining a term, the agency's pronouncements do not dictate whether a representation has the capacity to deceive a reasonable shopper under Chapter 93A." In addition, the court distinguished between federal guidance which may permit silence regarding GMO ingredients and a label containing an affirmative representation regarding the absence of such ingredients. The court also noted that Lee's complaint sought damages and did not request that Conagra make any affirmative GMO disclosure on its labels.

Finally, the First Circuit found that Lee had alleged a cognizable injury under Chapter 93A because she alleged that GMO-free vegetable oil is sold at a premium price and Conagra's deceptive advertising caused consumers to pay a higher price for a product that contained GMOs. The court described that as a "classic benefit-of-the-bargain injury."

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