

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
CALIFORNIA

Wong v. Iovate Health Sciences U.S.A. Inc.

Wong · No. 2:24-cv-00901-DAD-CKD · Decided March 14, 2025

SUMMARY

The United States District Court for the Eastern District of California grants Iovate Health Sciences U.S.A. Inc.’s motion to dismiss Brandon Wong’s false-advertising class action, with leave to amend. The court dismisses plaintiff’s requests for injunctive relief and his CLRA claim because he does not allege future harm and seeks only injunctive relief under the CLRA. The court concludes that the FAL and UCL claims adequately plead the lack of an adequate legal remedy and satisfy Rule 9(b), but the excerpt ends while the court is analyzing whether the product labeling could mislead a reasonable consumer.

CASE DETAILS

COURT	United States District Court for the Eastern District of California
WRITING FOR THE COURT	Dale A. Drozd
JURISDICTION	United States District Court for the Eastern District of California
DECIDED	March 14, 2025
DOCKET	2:24-cv-00901-DAD-CKD
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss a false-advertising class action complaint asserting California False Advertising Law, Consumers Legal Remedies Act, and Unfair Competition Law claims.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court tests the legal sufficiency of the complaint, accepts well-pleaded factual allegations as true, and construes them in the plaintiff’s favor, but does not accept legal conclusions or conclusory allegations. Fraud-based claims must satisfy Rule 9(b)’s particularity requirement.
PRECEDENTIAL VALUE	unpublished district court order
PARTIES	Brandon Wong v. Iovate Health Sciences U.S.A. Inc.

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QUESTIONS PRESENTED

1. Whether plaintiff had standing to seek injunctive relief and whether the CLRA claim, which sought only injunctive relief, should be dismissed.
2. Whether plaintiff adequately pleaded the lack of an adequate remedy at law to invoke equitable jurisdiction for his FAL and UCL claims.
3. Whether plaintiff's FAL and UCL claims satisfied Federal Rule of Civil Procedure 9(b).
4. Whether the product packaging was likely to deceive a reasonable consumer under the FAL and the fraudulent prong of the UCL.
5. Whether plaintiff stated a UCL claim under the unlawful and unfair prongs based on alleged violations of California and federal food-labeling law.

HOLDINGS

1. A plaintiff seeking injunctive relief against allegedly false advertising must allege a likelihood of future harm. Because Wong did not allege future harm and sought only injunctive relief under the CLRA, the court dismissed the requests for injunctive relief and the CLRA claim.
2. At the pleading stage, allegations that the plaintiff lacks an adequate legal remedy and that equitable relief would be more prompt, certain, or efficient are sufficient to plead the lack of an adequate remedy at law.
3. The complaint adequately satisfied Rule 9(b) because it identified the defendant, the protein-content representations, the product packaging where they appeared, the approximate purchase period, and why the representations were allegedly misleading.
4. The complaint failed to state a FAL claim because the front-label asterisk and disclaimer, together with the back-label Supplement Facts panel, made it impossible for plaintiff to prove that a reasonable consumer was likely to be deceived.
5. The UCL claim failed under all three prongs. The fraudulent prong failed for the same reason as the FAL claim; the unlawful prong failed because plaintiff did not plead a viable predicate violation; and the unfair prong failed because it was based on the same conduct that did not support the other two prongs.
6. Dismissal was granted with leave to amend because the court could not conclude that amendment would be futile.

KEY QUOTATIONS

“The court therefore concludes that the asterisk, disclaimer, and back label Supplement Facts renders it impossible for the plaintiff to prove that a reasonable consumer was likely to be deceived.”” (at 12)

FACTUAL BACKGROUND

Brandon Wong purchased Iovate's 100% Mass Gainer dietary supplement and alleged that the packaging represented 60 grams of protein per serving, although that amount was achieved only when the powder was mixed with skim milk. He alleged that the products contained less protein when mixed with water and that the milk-related disclaimer and asterisk were small and insufficiently prominent. He sought to represent a California class asserting claims under the California False Advertising Law, Consumers Legal Remedies Act, and Unfair Competition Law, requesting restitution, attorneys' fees, and injunctive relief.

PROCEDURAL HISTORY

Plaintiff filed the class action complaint on March 21, 2024. Defendant moved to dismiss; plaintiff opposed and requested leave to amend. The court granted the motion to dismiss all claims, including the requested injunctive relief, but granted leave to amend and allowed twenty-one days to file an amended complaint or a notice of intent not to amend.

DISPOSITION

other

CASES CITED

- N. Star International v. Arizona Corporation Commission, 720 F.2d 578, 581 (9th Cir. 1983)
- Balistreri v. Pacifica Police Department, 901 F.2d 696, 699 (9th Cir. 1990)
- Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555, 570 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 676, 678 (2009)
- Hishon v. King & Spalding, 467 U.S. 69, 73 (1984)
- Love v. United States, 915 F.2d 1242, 1245 (9th Cir. 1990)
- U.S. ex rel. Chunie v. Ringrose, 788 F.2d 638, 643 n.2 (9th Cir. 1986)
- Kearns v. Ford Motor Co., 567 F.3d 1120, 1124, 1127 (9th Cir. 2009)
- Vess v. Ciba-Geigy Corp. USA, 317 F.3d 1097, 1106-07 (9th Cir. 2003)
- Associated General Contractors of California, Inc. v. California State Council of Carpenters, 459 U.S. 519, 526 (1983)
- Davidson v. Kimberly-Clark Corp., 889 F.3d 956, 964, 969-70 (9th Cir. 2018)
- Guzman v. Polaris Industries Inc., 49 F.4th 1308, 1314 (9th Cir. 2022)
- Schlesinger v. Councilman, 420 U.S. 738, 754 (1975)
- Forrett v. Gourmet Nut, Inc., 634 F. Supp. 3d 761, 768 (N.D. Cal. 2022)
- Sonner v. Premier Nutrition Corp., 971 F.3d 834, 844 (9th Cir. 2020)
- Murphy v. Olly Public Benefit Corp., 651 F. Supp. 3d 1111, 1129 (N.D. Cal. 2023)

- Whiteside v. Kimberly-Clark Corp., 108 F.4th 771, 777, 784-85 (9th Cir. 2024)
- Williams v. Gerber Products Co., 552 F.3d 934, 938-39 (9th Cir. 2008)
- Davis v. HSBC Bank Nevada, N.A., 691 F.3d 1152, 1169 (9th Cir. 2012)
- Cel-Tech Communications, Inc. v. Los Angeles Cellular Telephone Co., 20 Cal. 4th 163, 180 (1999)
- Lozano v. AT&T Wireless Services, Inc., 504 F.3d 718, 731 (9th Cir. 2007)
- Intri-Plex Technologies, Inc. v. Crest Group, Inc., 499 F.3d 1048, 1056 (9th Cir. 2007)
- Rosenberg Bros. & Co. v. Arnold, 283 F.2d 406, 406 (9th Cir. 1960)
- Ascon Properties, Inc. v. Mobil Oil Co., 866 F.2d 1149, 1160 (9th Cir. 1989)

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