

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

McCausland v. PepsiCo, Inc.

McCausland · No. 23-cv-04526-PCP · Decided March 6, 2025

SUMMARY

The Northern District of California granted in part and denied in part PepsiCo’s motion to dismiss claims concerning the advertising and labeling of Gatorade Protein Bars. The court held that plaintiffs plausibly alleged consumer-deception claims and derivative claims under California’s Unfair Competition Law, but lacked Article III standing to seek injunctive relief and failed to plead entitlement to equitable monetary relief. The dismissals were without leave to amend, with certain equitable-relief claims dismissed without prejudice to reassertion in state court.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	P. Casey Pitts
JURISDICTION	United States District Court for the Northern District of California
DECIDED	March 6, 2025
DOCKET	23-cv-04526-PCP
DISPOSITION	other
PROCEDURAL POSTURE	Plaintiffs brought a putative class action alleging deceptive advertising and labeling of PepsiCo's Gatorade Protein Bars. PepsiCo moved to dismiss the first amended complaint under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6).
STANDARD OF REVIEW	On a facial Rule 12(b)(1) motion, the court accepts the complaint's allegations as true and evaluates the jurisdictional issue similarly to a Rule 12(b)(6) motion. On a Rule 12(b)(6) motion, the court accepts factual allegations as true, construes the pleadings in the plaintiff's favor, and asks whether the complaint states a plausible claim for relief.
PRECEDENTIAL VALUE	unpublished, nonprecedential district court order
PARTIES	Ian McCausland, Carlo Garcia, Michael Zurl v. PepsiCo, Inc.

TOPICS

motions to dismiss

standing

consumer protection

deceptive trade practices

equitable relief

PRACTICE AREAS

civil procedure

consumer protection

false advertising

food labeling

remedies

QUESTIONS PRESENTED

1. Whether plaintiffs plausibly alleged consumer-deception claims despite PepsiCo's preemption and pleading arguments.
2. Whether plaintiffs plausibly stated derivative claims under the unlawful and unfair prongs of California's Unfair Competition Law.
3. Whether plaintiffs had Article III standing to seek injunctive relief after learning from the litigation that the product's accurate sugar information appeared on its back label.
4. Whether plaintiffs plausibly alleged that they lacked an adequate remedy at law, as required to seek equitable monetary relief under the UCL and CLRA.

HOLDINGS

1. Plaintiffs plausibly alleged consumer-deception claims. The court declined to resolve on a Rule 12(b)(6) motion whether certain protein allegations were preempted because the application of the FDA's characterizing-ingredient regulations presented factual issues, and the sugar-labeling allegations remained relevant to whether a reasonable consumer would be misled even though they were preempted to the extent they sought nonidentical labeling requirements.
2. Plaintiffs plausibly stated derivative claims under the unlawful and unfair prongs of California's Unfair Competition Law.
3. Plaintiffs lacked Article III standing to seek injunctive relief because, after learning that the product's back label disclosed accurate sugar-content information, they could avoid future injury by reviewing the label and could no longer reasonably claim that the advertising misled them.
4. Plaintiffs failed to plausibly allege entitlement to equitable monetary relief because they pleaded only the conclusory assertion that they lacked an adequate remedy at law and alleged no supporting facts.

KEY QUOTATIONS

"The plaintiffs cannot manufacture a concrete threat of future harm by simply alleging that they do not read labels." (Analysis IV)

"Plaintiffs fail to allege any facts supporting their allegation that they lack an equitable legal remedy." (Analysis V)

FACTUAL BACKGROUND

Plaintiffs alleged that PepsiCo deceptively advertised and labeled Gatorade Protein Bars, including through representations concerning the bars' protein and sugar content. They asserted consumer-deception claims and

derivative claims under the unlawful and unfair prongs of California's Unfair Competition Law, as well as claims for injunctive and equitable monetary relief under the UCL and California Consumer Legal Remedies Act. Plaintiffs amended their complaint to allege that they do not routinely research labeling fine print and intend to purchase the product again if its representations are consistent with its attributes or composition.

PROCEDURAL HISTORY

PepsiCo previously moved to dismiss the initial complaint. The court denied dismissal of the consumer-deception and UCL claims, but dismissed plaintiffs' requests for injunctive relief and equitable restitution. Plaintiffs filed a first amended complaint adding allegations concerning their requests for equitable relief, and PepsiCo renewed its motion to dismiss. The court granted the motion in part and denied it in part.

DISPOSITION

other

CASES CITED

- *Savage v. Glendale Union High School*, 343 F.3d 1036, 1039 n.2 (9th Cir. 2003)
- *Safe Air for Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004)
- *Wolfe v. Strankman*, 392 F.3d 358, 362 (9th Cir. 2004)
- *St. Clair v. City of Chico*, 880 F.2d 199, 201 (9th Cir. 1989)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 677-79 (2009)
- *Mendiondo v. Centinela Hospital Medical Center*, 521 F.3d 1097, 1104 (9th Cir. 2008)
- *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)
- *Rowe v. Educational Credit Management Corp.*, 559 F.3d 1028, 1029-30 (9th Cir. 2009)
- *In re Gilead Sciences Securities Litigation*, 536 F.3d 1049, 1055 (9th Cir. 2008)
- *United States v. Ritchie*, 342 F.3d 903, 908 (9th Cir. 2003)
- *Lee v. City of Los Angeles*, 250 F.3d 668, 688 (9th Cir. 2001)
- *Parrino v. FHP, Inc.*, 146 F.3d 699, 705-06 (9th Cir. 1998)
- *Davidson v. Kimberly-Clark Corp.*, 889 F.3d 956, 970 & n.5 (9th Cir. 2018)
- *Caldwell v. Nordic Naturals, Inc.*, 709 F. Supp. 3d 889, 911 (N.D. Cal. 2024)
- *Miller v. Nature's Path Foods, Inc.*, No. 23-CV-05711-JST, 2024 WL 4177940 (N.D. Cal. Sept. 11, 2024)
- *In re Apple Processor Litigation*, 2023 WL 5950622, at *2 (9th Cir. Sept. 13, 2023)
- *Sonner v. Premier Nutrition Corp.*, 971 F.3d 834, 844 (9th Cir. 2020)

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