

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
CALIFORNIA

American Ice Machine Company v. Modern Ice Equipment
Company, Inc.

American Ice Machine · No. 3:24-cv-02083 · Decided June 2, 2025

SUMMARY

The United States District Court for the Southern District of California granted Nvenia, LLC’s Rule 12(b)(6) motion to dismiss American Ice Machine Company’s first amended complaint. The court held that the claims, including negligent misrepresentation, warranty, contract, rescission, false advertising, and unfair competition claims, were inadequately pleaded and that the complaint did not establish a sufficient direct relationship between American Ice and Nvenia. The court dismissed Nvenia with prejudice, finding that further amendment would be futile.

CASE DETAILS

COURT	United States District Court for the Southern District of California
JURISDICTION	United States District Court for the Southern District of California
DECIDED	June 2, 2025
DOCKET	3:24-cv-02083
DISPOSITION	other
PROCEDURAL POSTURE	Defendant Nvenia, LLC moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss the first amended complaint for failure to state a claim. The district court granted the motion and dismissed Nvenia from the action with prejudice.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court tests the legal sufficiency of the pleadings, accepts factual allegations as true, and construes them in the plaintiff's favor. The complaint must contain enough facts to state a facially plausible claim. The court may consider exhibits attached to the complaint and need not accept allegations contradicted by those exhibits.
PRECEDENTIAL VALUE	unpublished district court order; precedential status unknown

TOPICS

- motions to dismiss
- pleadings
- civil procedure
- commercial litigation
- breach of contract

PRACTICE AREAS

civil procedure

commercial litigation

contracts

consumer protection

torts

QUESTIONS PRESENTED

1. Whether the first amended complaint plausibly stated a negligent misrepresentation or fraudulent-concealment claim against Nvenia.
2. Whether the first amended complaint plausibly stated claims for breach of express warranty, implied warranty of merchantability, or implied warranty of fitness for a particular purpose against Nvenia.
3. Whether the first amended complaint plausibly stated claims for breach of oral contract or rescission against Nvenia.
4. Whether the claims under California's Unfair Competition Law and False Advertising Law were adequately pleaded.
5. Whether Plaintiff should receive leave to amend after failing to cure deficiencies identified in the prior dismissal order.

HOLDINGS

1. A manufacturer-distributor relationship, without more, does not establish an agency relationship sufficient to impute the distributor's interactions with the plaintiff to the manufacturer. A plaintiff proceeding on an agency theory must allege facts showing conduct by each party manifesting acceptance of a relationship in which one performs work for the other under the other's direction.
2. The negligent-misrepresentation claim failed because Plaintiff did not plead with particularity the specific statements made by Nvenia, what was false or misleading about them, and how Plaintiff relied on them.
3. The fraudulent-concealment theory failed because Plaintiff did not allege facts establishing that Nvenia owed Plaintiff a duty to disclose.
4. The breach-of-express-warranty claim failed because Plaintiff did not plausibly allege that Nvenia made the alleged one-year warranty representation.
5. The implied-warranty-of-merchantability claim failed because Plaintiff lacked vertical contractual privity with Nvenia and did not establish an applicable advertising-based exception.
6. The claims for breach of the implied warranty of fitness for a particular purpose, breach of oral contract, and rescission failed because the amended complaint did not cure the deficiencies identified in the prior dismissal order, including the absence of allegations showing a direct relationship or transaction with Nvenia.
7. The UCL and False Advertising Law claims failed because they were based on the same deficient misrepresentation and concealment theories that did not state an underlying claim.
8. Leave to amend was properly denied because Plaintiff failed a second time, despite guidance from the court, to allege basic facts supporting its claims against Nvenia, making further amendment futile.

KEY QUOTATIONS

“A complaint will survive a Rule 12(b)(6) motion to dismiss if it contains “enough facts to state a claim to relief that is plausible on its face.”” (at 3)

“But a manufacturer-distributor relationship is not, by itself, sufficient to establish agency.” (at 5)

“The Court, then, cannot take it as true that Nvenia advertised the statements as alleged.” (at 7)

“The Court therefore denies Plaintiff leave to amend.” (at 12)

FACTUAL BACKGROUND

American Ice Machine, a California corporation, purchased a Hamer 540E ice-bagging machine from Modern Ice for \$110,000 after its principal viewed information about the machine on Nvenia's website and discussed the purchase with Modern Ice employees. The machine was delivered in April 2023, stored without operation, and initiated in March 2024; Plaintiff then alleged defects and sought to have a one-year warranty run from initiation rather than shipment. Plaintiff's claims against Nvenia relied largely on representations allegedly made by Modern Ice or appearing on Nvenia's website, but the amended complaint did not allege a direct transaction or sufficient agency relationship between Plaintiff and Nvenia, and the attached website screenshots contradicted several alleged representations.

PROCEDURAL HISTORY

American Ice Machine filed the action in the Superior Court of California, County of San Diego, against Modern Ice Equipment Company, Inc. and Nvenia, LLC. Modern Ice removed the action to the Southern District of California. The court previously granted Nvenia's motion to dismiss the original complaint without prejudice and allowed amendment. After Plaintiff filed a first amended complaint, Nvenia again moved to dismiss. The court granted the motion without leave to amend and dismissed Nvenia with prejudice.

DISPOSITION

other

CASES CITED

- *Conservation Force v. Salazar*, 646 F.3d 1240, 1242 (9th Cir. 2011)
- *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir. 2001)
- *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555, 570 (2007)
- *Conley v. Gibson*, 355 U.S. 41, 47 (1957)
- *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)
- *Mendiondo v. Centinela Hosp. Med. Ctr.*, 521 F.3d 1097, 1104 (9th Cir. 2008)
- *Los Angeles Lakers, Inc. v. Fed. Ins. Co.*, 869 F.3d 795, 800 (9th Cir. 2017)
- *AE ex rel. Hernandez v. Cty. of Tulare*, 666 F.3d 631, 636 (9th Cir. 2012)
- *Doe v. United States*, 58 F.3d 494, 497 (9th Cir. 1995)

- Telesaurus VPC, LLC v. Power, 623 F.3d 998, 1003 (9th Cir. 2010)
- Schreiber Distrib. Co. v. Serv-Well Furniture Co., 806 F.2d 1393, 1401 (9th Cir. 1986)
- Acevedo v. Sunnova Energy Corp., 738 F. Supp. 3d 1268, 1277 (C.D. Cal. 2024)
- Murphy v. DirecTV, Inc.
- Aton Ctr., Inc. v. United Healthcare Ins. Co., 311 Cal. Rptr. 3d 564, 593 (Cal. Ct. App. 2022)
- Apollo Cap. Fund, LLC v. Roth Cap. Partners, LLC, 70 Cal. Rptr. 3d 199 (2007)
- Kearns v. Ford Motor Corp., 567 F.3d 1120, 1124, 1126 (9th Cir. 2009)
- Monreal v. GMAC Mortg., LLC, 948 F. Supp. 2d 1069, 1077–78 (S.D. Cal. 2013)
- In re iPhone 4S Consumer Litig., No. 12-cv-1127, 2014 WL 589388, at *5 (N.D. Cal. Feb. 14, 2024)
- Daniels-Hall v. Nat'l Educ. Ass'n, 629 F.3d 992, 998 (9th Cir. 2011)
- In re Ford Motor Co. DPS6 Powershift Transmission Prod. Liab. Litig., No. 18-ml-02814, 2019 WL 3000646, at *5 (C.D. Cal. May 22, 2019)
- Smith v. Ford Motor Co., 749 F. Supp. 2d 980, 987 (N.D. Cal. 2010)
- Falk v. Gen. Motors Corp., 496 F. Supp. 2d 1088, 1095 (N.D. Cal. 2007)
- Bigler-Engler v. Breg, Inc., 213 Cal. Rptr. 3d 82, 113–14 (Cal. Ct. App. 2017)
- Viggiano v. Hansen Nat. Corp., 944 F. Supp. 2d 877, 893 (C.D. Cal. May 13, 2013)
- Williams v. Beechnut Nutrition Corp., 185 Cal. App. 3d 135, 142 (Cal. Ct. App. 1986)
- Birdsong v. Apple, Inc., 590 F.3d 955, 958 (9th Cir. 2009)
- Clemens v. DaimlerChrysler Corp., 534 F.3d 1017, 1023 (9th Cir. 2008)
- Burr v. Sherwin Williams Co., 268 P.2d 1041, 1049 (Cal. 1954)
- Keith v. Buchanan, 173 Cal. App. 3d 13, 25 (Cal. Ct. App. 1985)
- In re Cloudera Sec. Litig., 121 F.4th 1180, 1190–91 (9th Cir. 2024)
- Lathus v. City of Huntington Beach, 56 F.4th 1238, 1243 (9th Cir. 2023)