

# California Federal Judge Denies Motion to Dismiss False Advertising Class Action Involving Breyers Natural Vanilla Ice Cream

Article By:

Food and Drug Law at Keller and Heckman

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Numerous class action lawsuits have been filed, mostly by a single firm, involving products that are claimed to contain deceptive and misleading information on their labels regarding vanilla. We have reported, for example, on a lawsuit filed June 26, 2020 against Hain Celestial Group involving [soymilk](#), which specifically alleges that the challenged product contains vanillin (an artificial vanilla flavor), and is distinguished from a case dismissed in June against Kellogg for [granola bars](#), where the claims were deemed too speculative because the Plaintiffs relied solely on the declaration of “natural flavors” in the ingredient list, as opposed to a listing for “vanilla” or “vanilla extract,” to conclude that a non-vanilla flavor was present.

Most recently, on July 16, 2020, in a case against Unilever, a California federal judge rejected procedural arguments in a motion to dismiss claims that Breyers Natural Vanilla Ice Cream is falsely marketed and labeled as containing vanilla flavor derived exclusively from the vanilla plant and is misleading consumers by failing to state that it also contains artificially flavored vanilla, as revealed in laboratory testing of the ice cream. In a similar case involving [Wegman's vanilla ice cream](#), which was dismissed last week, the Plaintiffs did not allege the product was labeled as being exclusively flavored with vanilla bean or vanilla extract. The New York federal judge in the Wegman's case determined that data relied on by the plaintiff may not have been sufficiently sensitive to determine that vanilla was not present in the ice cream. Additionally, perhaps misconstruing FDA's labeling regulations, the judge questioned whether the labels were deceptive because they did not state that vanilla bean or vanilla extract were used, although Plaintiffs had argued that to be truthful the product should have been labeled as “flavored” vanilla ice cream.

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