

Another Chocolate False Ad Lawsuit Dismissed

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- On August 30, U.S. District Judge Gary Feinerman [dismissed](#) a consumer class action lawsuit against Dreyer's Grand Ice Cream Inc., the makers of Haagen-Dazs vanilla milk chocolate almond ice cream bars. The judge held that no reasonable consumer would understand the representations on the product label to mean that the ice cream coating contained only chocolate. Further, judge Feinerman found that plaintiff Lawrence Rice has no standing to pursue injunctive relief because he is aware that the product contains vegetable oil and therefore faces no risk of future harm or deception from the principal display panel's failure to mention the ingredient.
- As background, we previously reported on this case in [July](#) and [November](#) of 2021. Rice alleged that Dreyer's failed to inform consumers that it used coconut oil as a substitute for some cacao beans to make the chocolate in the vanilla milk chocolate almond ice cream bars coating. He argued that it was false and misleading to characterize the coating as "milk chocolate" and alleged that the coatings should have been described as "milk chocolate with vegetable fat coating" because of the coconut oil that was used.
- Rice's claims were dismissed without prejudice for want of subject matter jurisdiction insofar as they seek injunctive relief and on the merits insofar as they seek monetary relief. Judge Feinerman gave the plaintiff until September 20 to file an amended complaint. If Rice does not replead, the dismissal will convert to a dismissal with prejudice and a judgment will be entered.

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