

Plaintiffs Allege Failure to Declare Presence of Additives on Sparkling Water Label is Misleading

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- On January 16, consumer plaintiffs [filed](#) a class action lawsuit against The Coca-Cola Company alleging that their Fresca Sparkling Soda Water misleads consumers to believe the beverages contain no added sweeteners, even though they contain aspartame and citric acid. In the complaint, named plaintiffs Mark Letoski and Roger Fox assert that, per the FDA, consumers understand the terms “sparkling water” or “soda water” to mean water with added carbonation but without sweeteners or flavorings. Thus, they argue that the presence of any [food additives](#) should be prominently disclosed on the principal display panel (PDP).
- Notably, the product identity statements (PIS) do appear to declare the presence of flavorings. For example, two of the PISs are “Sparkling Soda Water Black Cherry Citrus Flavor With Other Natural & Artificial Flavors” and “Sparkling Soda Water Grapefruit Citrus Flavor With Other Natural Flavors.” But the plaintiffs argue the PIS should also identify the presence of sweeteners (e.g., “Artificially Sweetened Sparkling Soda Water”).
- Further, the plaintiffs argue that the images of grapefruits and cherries on the product label lead consumers to believe that the beverages contain “non-negligible amounts” of real fruit ingredients, despite the characterizing flavor statements that are declared on the PDP (e.g., citrus flavor with other natural flavor & artificial flavors). The plaintiffs concede that although the products do contain grapefruit juice concentrate as an ingredient, the label is misleading because citric acid is present at a greater amount.
- The case is *Letoski et al v. The Coca-Cola Company*, 1:23-cv-00238. The lawsuit alleges violations of the Illinois Consumer Fraud and Deceptive Business Practices Act, the Vermont Consumer Fraud Act, several state consumer fraud acts, plus breaches of express warranty, implied warranty of merchantability and the Magnuson Moss Warranty Act, and negligent misrepresentation, fraud, and unjust enrichment.

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