

## **District of Columbia Court Allows Extra Virgin Olive Oil Fraud Claims To Proceed To Trial**

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Judge Brian F. Holeman of the D.C. Superior Court issued an omnibus order this week denying summary judgment in lawsuits against a number of D.C. grocery stores, including Safeway and Giant, paving the way for a consumer to proceed to trial on claims that the stores sold inferior quality olive oil falsely labeled as “extra virgin.” The consumer, Mr. Dean Mostofi, brought the suits as a “private attorney general” under the District’s consumer protection law.

Extra virgin olive oil is the purest and highest quality of olive oil. In order to qualify as extra virgin, olive oil must have certain chemical and sensory properties and must be free of all defects and chemical processing. The lawsuits allege that Defendants sold inferior grades of olive oil as “extra virgin.” The olives oil brands in question include Carapelli, Filippo Berio, Pompeian, Bertolli, and Safeway Select.

Testing performed by the UC Davis Olive Center in 2010 and 2011 found that a large percentage of “extra virgin” olive oil sold by those brands was actually not “extra virgin.” In addition, Mr. Mostofi employed taste-testing “panels” of olive oil experts in both California and Australia to test bottles of olive oil he purchased in D.C. Those panels—as well as an Australian chemical laboratory—indicated that some olive oil sold in D.C. under those brand names is also not truly extra virgin.

In denying summary judgment to the Defendants, the Court found that (1) expert testimony could support a finding that the oils are not, in fact, extra virgin; (2) testing on bottles other than those purchased by the Plaintiff could be considered at trial; (3) selling olive oil falsely labeled as “extra virgin” could violate a reasonable consumer’s expectation; and (4) testing performed by UC Davis and Mr. Mostofi’s expert was sufficient evidence to allow the claims on behalf of the general public to proceed to trial.

Counsel for Plaintiff, Hassan Zavareei, said, “This is a huge victory in a hard-fought battle against entrenched interests determined to prevent our case from going to trial. We are gratified that we will have an opportunity to put an end to this fraudulent food mislabeling in the District of Columbia. D.C. consumers have a right to get what they pay for.”

To read the omnibus order denying summary judgement, [click here](#).

To read the omnibus order denying the exclusion of expert testimony, [click here](#).

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