

Court Denies Majority of Starbucks “Refresher” Motion to Dismiss

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- In a September 16 opinion, U.S. District Judge John P. Cronan denied the majority of Starbucks’ motion to dismiss a proposed class action lawsuit related to the allegedly misleading names of their “Refreshers” products . Named plaintiffs Joan Kominis and Jason McAllister alleged that Starbucks advertises its Refreshers beverages as containing fruits like mango, passionfruit, and acai, but that the beverages do not actually contain said fruits. The plaintiffs argued that had they been aware that the Refreshers did not contain the named fruits, they would not have purchased the products or would have paid significantly less for them.
- In their motion to dismiss, Starbucks argued that consumers understand that the product names refer to flavors, not the ingredients, and that its advertising accurately represents the products’ fruit content. However, Judge Cronan held that, based on the context of the menu and advertising images of drinks with fruit pieces, a significant portion of the general consuming public could reasonably believe that the products contain the named fruits.
- Out of eleven causes of action, Judge Cronan only granted the dismissal of unjust enrichment and common law fraud. In his opinion, Judge Cronan stated that the plaintiffs adequately alleged that a significant portion of the general public could be misled by the product names. Judge Cronan held that the pleading of unjust enrichment failed because it is duplicative of the New York General Business Law claims and because it cannot be brought under California law in conjunction with an express warranty claim. Further, Judge Cronan held that plaintiffs failed to sufficiently plead scienter to support the fraud claim. The claim of unjust enrichment was dismissed with prejudice, and the claim with respect to fraud was dismissed with leave to amend.

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