

Influencer Violation of Florida Law May be Based Upon FTC Guidelines

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In the matter of *Sava v. 21st Century Spirits*, 2024 WL 3161625 (N.D. Ill. 2024), federal district court held that the [FTC Endorsement Guides](#) should be afforded “due consideration and great weight” when assessing the issue of whether influencers should have disclosed their material relationship with a brand.

Here, Blue Ice Vodka, 21st Century Spirits utilizes influencers for social media promotional purposes. Private plaintiffs initiated legal action against the company claiming that the consumer protection laws of numerous states had been violated, in part, because its influencer marketing campaigns did not disclose material connections to the company, as required by the FTC Endorsement Guides.

Plaintiffs alleged that the influencers pretended to be disinterested consumers (in addition to allegedly making false claims about the product). Blue Ice moved to dismiss, arguing that the influencers had no legal obligation under applicable state law to disclose the material connection. In doing so, Blue Ice asserted that plaintiffs are not permitted to rely upon the FTC Endorsement Guidelines as the foundation for a state law claim because the Guidelines do not possess the force of law.

The court disagreed and denied Blue Ice’s motion to dismiss. In doing so, it noted that a violation of the Florida Deceptive and Unfair Trade Practices Act may indeed be based upon Federal Trade Commission rules and “the standards of unfairness and deception set forth and interpreted by” the agency. And, thus, the failure to include such disclosures could potentially be a deceptive act within the meaning of the Florida statute.

Takeaway: Court are likely to consider FTC rules and guidelines when evaluating whether there has been a violation of state law, including the FDUTPA.

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