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Court Considers Measure of Damages in California CLRA Case for Deceptive "Made in USA" Claims

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A federal jury in the Central District of California has awarded $2.36 million in damages to a consumer class, finding that R.C. Bigelow Inc., without limitation, violated the Consumer Legal Remedies Act and misrepresented that the company's tea products as were "Manufactured in the USA 100% American Family Owned" and "America's Classic."

Here, consumers initiated a class action lawsuit against the tea company, alleging that its branding, packaging and advertising is deceptive because it expressly and/or implied states that its tea is wholly manufactured in America. The consumers further alleged that the products are comprised solely of foreign-sourced tea. They claimed that had they known the truth about the tea that they would not have made the same purchasing decisions.

In July 2023, the court certified a class comprised of all purchasers in California of at least one box of Bigelow tea containing the label at issue between 2017 and 2023.

The class action lawsuit argued that the teas at issue are made from tea leaves that are derived from a plant that are not grown or processed in the United States and are grown in places such as Sri Lanka and India.

The issues before the jurty at trial included whether the company engaged in unfair competition and unfair or deceptive acts under the CLRA, whether the company breached its express warranty that the products were "Manufactured in the USA," whether the company made the allegedly false statement knowingly or recklessly, and damages.

Despite the company argued that the labels were intended to reference the company's U.S.-based blending and packaging facilities, the tea bags were manufactured in the United States, and the company owned a tea plantation in the U.S. However, the court found that the teas in question are grown and processed overseas, mostly in China, India, and Sri Lanka. The court further found that the teas undergo processing outside of the U.S. that "transformer" them from raw leaves into a consumable product. Thus, the court found that teas to be processed abroad.

The court held that the tea's "[m]anufactured in the USA 100%" label was "literally false" because the great majority of" the company's tea is imported from overseas.

Following trial, the jury awarded a class of California tea purchasers $2.36 million in compensatory damages. No punitive damages were awarded.

A damages expert for the class attributed 11.3% of the company's sales to the purported false label, asserting that consumers overpaid for the tea by $3.26 million. The expert testified that he conducted a study of hundreds of tea buyers and purportedly found that some of those surveyed were willing to pay more for a product that included phrases such as "Manufactured in USA 100% American-Family Owned."

Takeaway: "Made in USA" representations are heavily policed by the Federal Trade Commission. The "Made in USA Labeling Rule" requires, in part, that for a product to be called Made in USA, or claimed to be of domestic origin without qualifications or limits on the claim, the product must be "all or virtually all" made in the U.S.; (i) final assembly or processing of the product must occur in the United States; (ii) all significant processing must occur in the U.S.; and (iii) all or virtually all ingredients or components must be made and sourced in the U.S. Additionally, the product should contain no – or negligible – foreign content. Stte attorneys general and private plaintiffs also aggressively pursue deceptive U.S. origin claims. More and more frequently, related representations become the subject of consumer class action demand letters and litigation pertaining to violation of the California Consumer Legal Remedies Act, amongst other applicable legal regulations. Importantly, here, the measure of damages for a "Made in the USA" claim was the likely increase in price attributable to eth alleged false representation of origin. This case underscores the importance of manufacturers and marketing that incorporate U.S. origin claims into their advertising, marketing and/or packaging to consult with a seasoned FTC attorney to limit liability exposure for failing to comply with applicable legal regulations, including, but not limited to, state and federal "Made in U.S.A." requirements, and California's CLRA.

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