

False Advertising Claim Washed Away for Lack of Standing

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The issue of whether a party has standing to litigate in federal court can end up sinking a lawsuit. And as one bottled-water litigant in the District of Maine recently found out, failure to satisfy the standing requirements can quickly drown hopes of reaching the merits of the case.

The case in question involved a false advertising claim brought by plaintiff Maine Springs, a spring water bottler with facilities in Poland Spring, Maine, against defendant **Nestlé Waters**, a bottled water company that owns the **Poland Spring®** brand. Maine Springs filed a complaint asserting that Nestlé Waters violated the Lanham Act by using the Poland Spring® brand name for bottled water—because the water allegedly does not come from carefully selected mountain springs and is not 100% natural spring water, as marketed and advertised by Nestlé Waters. In response, Nestlé Waters moved to dismiss the complaint, claiming that Maine Springs lacked standing under the Lanham Act to bring the false advertising claim.

Before the issue of Maine Springs' Lanham Act standing could be reached, another issue bubbled to the surface—whether Maine Springs had standing under Article III of the United States Constitution to give the court requisite jurisdiction to hear the case. As Judge Singal notes in his opinion, “the issue of whether a party may sue under the Lanham Act is distinct from whether that party has Article III standing to press its claims” and Article III standing is “perhaps the most important of the jurisdictional doctrines.”

The court found that the complaint satisfied the first prong of Article III standing because it evinced a concrete and particularized injury to Maine Springs—namely, that other bottlers' rejection of bulk water supply proposals from Maine Springs had prevented Maine Springs from selling any of its water. However, according to the court, Maine Springs' allegation that the bottlers rejected its supply proposals due to fear of threatened litigation by Nestlé Waters did not provide a genuine nexus between the injury to Maine Springs and Nestlé Waters' alleged false advertising activity. As a result, the court determined that the second prong of Article III standing was not met and dismissed the case.

The opinion highlights the importance of ensuring that a complaint contains sufficient facts to buoy not only the claims asserted within, but also the threshold issue of Article III standing, to avoid having a motion to dismiss terminate the case at the outset.

The case is **Maine Springs, LLC v. Nestlé Waters North America, Inc.**, No. 2:14-cv-00321-GZS, in

the District of Maine.

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