

## **“All Natural” Claims Cause a Storm of Lawsuits as Consumers Wait for FDA Clarification**

Quaker Oats is the target of a putative federal class action lawsuit challenging advertising claims that its oatmeal is “100% Natural.” The plaintiffs assert that the “100% Natural” claim for the product constitutes false advertising because their testing found trace levels of a pesticide called glyphosate in the oatmeal. The level of glyphosate detected in the oatmeal was well below the amount permitted by the United States Environmental Protection Agency’s regulatory standards. Nevertheless, the plaintiffs assert that the key issue is not the presence of the pesticide, but rather the use of the claim that the product is “100% Natural” despite the presence of the pesticide.

The Quaker Oats case is just one of the latest in a string of lawsuits over “natural” claims on food products. For example, snack-maker KIND faced a barrage of lawsuits in 2015 related to its use of the words “all natural” and “healthy” in advertising materials. KIND has now asked a New York court to either stay or dismiss the suits until the FDA officially weighs in on the “natural” issue.

Similar lawsuits against Hain Celestial, Blue Diamond Growers, and Chobani have been paused after the United States Food and Drug Administration announced in November 2015 that it would re-evaluate its regulation of the word “natural.” The administration’s action was driven by a number of factors, including the growing number of class action lawsuits in this area and the agency’s receipt of a number of petitions asking it to clarify its standards on the use of the word “natural” on food labels or to prohibit such use altogether.

The administration’s previous guidance to industry does indicate that “natural” foods cannot contain anything artificial or synthetic. However, the agency has not yet taken a public stance on the inclusion of high fructose corn syrup, genetically-modified-organisms, and other ingredients in products that contain “natural” claims.

As consumers and companies alike await clarification from the administration on the use of the term “natural,” retailers and other companies who market private label food products should consider whether to avoid using this term or similar altogether. Until the issue is resolved, these lawsuits are likely to continue to pile up.

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