

Competitor May Bring Lanham Act Case for Juice Label

A lawsuit between two competitors over the labeling of a pomegranate-blueberry juice blend may proceed under the Lanham Act and is not precluded by the Federal Food, Drug, and Cosmetic Act (FDCA), the U.S. Supreme Court found.

The decision reverses both the trial court and appellate court, which found that POM Wonderful LLC could not sue Coca-Cola Co. for what POM alleges is false and misleading labeling of Coca-Cola's pomegranate-blueberry juice blend.

"The position Coca-Cola takes in this Court that because food and beverage labeling is involved it has no Lanham Act liability here for practices that allegedly mislead and trick consumers, all to the injury of competitors, finds no support in precedent or the statutes," Justice Kennedy found.

Coca-Cola sells a Minute Made juice that contains 99.4 percent apple and grape juice, 0.3 percent pomegranate juice, 0.2 percent blueberry juice, and 0.1 percent raspberry juice. "Despite the minuscule amount of pomegranate and blueberry juices in the blend, the front label of the Coca-Cola product displays the words 'pomegranate blueberry' in all capital letters, on two separate lines," Justice Kennedy wrote. POM contends the labeling, marketing, and advertising mislead consumers into believing the product consists predominantly of pomegranate and blueberry juices when it in fact "consists predominantly of less expensive apple and grape juices," which confusion causes POM to lose sales.

The issue in the case flows from the Food and Drug Administration's lack of action against Coca-Cola regarding the labeling and whether such lack of action prohibits a competitor from bringing an action under the Lanham Act for unfair competition. The lower courts said the FDCA precluded the Lanham Act action.

The Supreme Court found that "neither the Lanham Act nor the FDCA, in express terms, forbids or limits Lanham Act claims challenging labels that are regulated by the FDCA."

Justice Kennedy noted that the Lanham Act creates a cause of action for unfair competition through misleading advertising or labeling. Competitors may bring Lanham Act enforcement actions. On the other hand, the FDCA prohibits the misbranding of food and drink. The government, not private parties, enforces the FDCA. The two statutes are not mutually exclusive.

POM Wonderful LLC v. Coca-Cola Co., No. 12-761, issued June 12, 2014.