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Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

## Food Co. Cuts \$1.6M Deal To End 'Healthy' Coconut Oil Suit

By **Jonathan Capriel**

Law360 (October 26, 2022, 7:53 PM EDT) -- Supplement maker Barlean's Organic Oils has agreed to a \$1.6 million deal ending class action claims that it misleadingly marketed coconut oil as more healthful than butter when it actually "contains dangerous amounts of saturated fat," according to a motion filed in California federal court Tuesday.

The Ferndale, Washington-based dietary company denies all wrongdoing, but for the next five years Barlean's Organic has agreed to no longer call its coconut oil a "smart fat" or describe it as a "healthy alternative to butter," according to the filing, **which seeks preliminary approval** of the settlement.

In its memorandum, attorneys for the class called the \$1.6 million settlement "sizable relief" for those who purchased a 16- to 60-ounce container of Barlean's organic, virgin and butter-flavored coconut oil between January 2015 and the present.

"Only after obtaining certification — and with their motion for partial summary judgment pending and the pretrial conference about one month away — were plaintiffs able to secure the sizable relief embodied in the present settlement," said the filing, submitted by Paul K. Joseph of Fitzgerald Joseph LLP. "The court should find that the proposed settlement falls within the range of reasonableness and grant preliminary approval."

Under the terms of the settlement, consumers would get \$3 to \$7 back for every one of the coconut oil products bought, with proof of purchase. Those without can get up to five units reimbursed, according to the agreement.

The three named plaintiffs — Michael Testone, Collin Shanks and Lamartine Pierre — are set to receive \$7,500 each, and class counsel said they would seek up to \$537,500 in attorney fees.

According to the lawsuit, filed in January 2019, Barlean's promoted its various coconut oils, used in cooking and baking, as more healthful than many other oils and butter. The suit specifically called out the recommendation on labels claiming that its coconut oil could be used as a one-to-one substitute for butter.

"This misleadingly suggests that the product is healthy, which is false and misleading because it is actually unhealthy and contains dangerous amounts of saturated fat," said an amended complaint, filed in September 2019. "In reality, because coconut oil contains more saturated fat than butter and any other common cooking oil, doing so would increase consumption of saturated fat and decrease consumption of unsaturated fat."

The suit accused the company of violating California's Unfair Competition Law, False Advertising Law and the Consumers Legal Remedies Act and New York's unfair and deceptive business practices law and false advertising statute.

Barlean's Organic did not immediately respond to a request for comment Wednesday. Fitzgerald Joseph LLP, counsel for the plaintiffs, Class counsel declined to comment.

The plaintiffs are represented by Paul K. Joseph, Jack Fitzgerald, Melanie Persinger, Trevor M. Flynn and Caroline S. Emhardt of Fitzgerald Joseph LLP.

Barlean's Organic Oils is represented by Gabriel G. Hedrick, Miles D. Scully, Lara Sue Garner and William L. Cogshall III of Gordon & Rees Scully Mansukhani LLP.

The suit is Testone et al. v. Barleans Organic Oils LLC, case number 3:19-cv-00169, in the U.S. District Court for the Southern District of California.

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