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Dole Falsely Touted Sugary Snacks As Healthy, Suit Says

By Henrik Nilsson

Law360 (July 5, 2023, 8:17 PM EDT) -- Dole Packaged Foods LLC's fruit snacks harm consumers as the company crams the products with added sugar while marketing them as nutritious and healthy, according to a proposed class action filed Monday in California federal court.

Drawing comparisons to cigarette companies disputing the link between cancer and smoking, the two named plaintiffs, Shamea Broussard and Michael Schirano, allege that Dole's parfaits, gels and juice products are marketed as good for the consumers and can even help boost the immune system. In reality, the products contain sugar levels well beyond daily recommendations set by the American Heart Association, according to the 60-page complaint.



Dole Packaged Foods LLC's fruit snacks contain excessive levels of sugar, according to a proposed class action. (Court Documents)

"Because loading these products with [free and added] sugar and marketing them as good for you is directly contrary to the science, Dole's claims are false or at least highly misleading," Broussard and Schirano said. "For example, Dole packs its popular gel snack products, which are marketed towards children as 'good nutrition,' with up to 20 grams of added sugar. This is 166% more added sugar than the [American Heart Association] 's recommended daily limit for children 4-8 years old."

Free sugar is any sugar added to a food or drink that is naturally occurring in honey, syrup and fruit juice. Added sugar is a subset of free sugar and refers to sugar added during processing, such as brown sugar, sucrose, molasses and fruit juice concentrates, according to the suit.

Eating free and added sugar above 5% of daily caloric intake increases the risk of cardiovascular disease, diabetes and a host of other health complications, according to the suit.

The plaintiffs target the labeling and marketing of Dole's fruit bowls, fridge packs, canned fruit in

heavy and light syrup, canned juices and certain beverages.

For example, over 70% of the calories in Dole's fruit bowls in gel come from free and added sugar. But the company represents that the bowls are nutritious and contain vitamin C, which supports the immune system, according to the suit.

Similarly, although between 88% and 96% of calories in Dole's fruit juices come from free and added sugar, the company falsely markets the products as healthy, Broussard and Schirano alleged.

The plaintiffs allege that Dole and other food companies have spent billions of dollars on disinformation campaigns that include discrediting research on the dangers of excessive sugar consumption, similar to cigarette companies disputing the link between cancer and smoking.

Pointing to one of Dole's own marketing campaigns from 2021 on the difficulties for consumers in interpreting the nutrition facts panel, Broussard and Schirano argued that the nutrition label is inadequate and "does not dispel Dole's misleading messaging."

Given the company's size and that Dole holds itself out as an expert on nutrition, it has a duty to disclose the information on the dangers of the sugar levels in its packaged snacks, Broussard and Schirano said.

"In sum, through both on-label and off-label advertising, Dole tells consumers the products are healthy and beneficial to health," Broussard and Schirano said. "Dole does this despite knowing that nutritious foods do not contain processed, [free and added] sugars like those in the products."

The complaint states claims for consumer fraud, breach of express and implied warranties, negligent and intentional misrepresentation and unjust enrichment.

Dole Packaged Foods LLC and counsel for plaintiffs did not immediately respond to requests for comment.

The consumers are represented by Melanie R. Persinger, Jack Fitzgerald, Paul K. Joseph and Caroline S. Emhardt of Fitzgerald Joseph LLP.

Counsel information for Dole Packaged Foods was not immediately available.

The case is Broussard et al. v. Dole Packaged Foods LLC, case number 3:23-cv-03320, in the U.S. District Court for the Northern District of California.

--Editing by Alex Hubbard.