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Minute Maid 'Good For You' Claim Upheld By Federal Reg.

By **Collin Krabbe**

Law360 (October 26, 2023, 11:16 PM EDT) -- A California federal judge has trimmed a lawsuit over health marketing claims regarding Minute Maid juice boxes, finding that one of two phrases at issue was protected by Food and Drug Administration regulation while the other was not shown to be authorized by the government.

U.S. District Judge Vince Chhabria said in a Wednesday order that the phrase "Good for You!" qualifies as an implied nutrient claim, which is a statement suggesting that food may be useful in maintaining a healthy diet because of its nutrient content, because of a "connection" among various statements.

"It operates like a topic sentence, where the assertions about particular nutrients appear to support the statement that precedes them. The primary, if not exclusive, reason that a reader would think the juice boxes 'Good for You!' [is] based on this panel is the appearance below of the nutrient content claims," the judge's order said.

With respect to the other phrase in contention — "Part of a Healthy Balanced Diet" — the judge said Coca-Cola has a responsibility to show the juice boxes either meet the threshold of 10% of the daily recommended amount of vitamin C before vitamin C fortification, or were fortified under a regulatory provision.

The suit claims the juice boxes break the fortification policy, and Coca-Cola does not dispute the purported violation in its bid to dismiss, the order said, instead asserting that the policy is irrelevant because the plaintiff, Gary Reynolds, did not allege that the product initially contained less than 10% of the daily recommended amount of vitamin C.

But "the burden is on Coca-Cola to demonstrate that the juice boxes either meet the ten percent threshold prior to fortification or were fortified in accordance with the policy," according to Judge Chhabria. "Therefore, for the purposes of this motion to dismiss, the 'Part of a Healthy Balanced Diet' statement is not a permissible implied nutrient content claim, so state law challenges to it are not preempted."

Reynolds also stated a claim under state law based on the "Part of a Healthy Balanced Diet" phrase, which the judge upheld for now.

The order said that the suit contains detailed allegations about health dangers posed by consuming fruit juice because of the quantity of sugar it contains as well as the form of that sugar — so much so that it is plausible that members of the public are likely to be tricked by the label.

"Even if it were appropriate to conclude that a reasonable consumer would check the label to verify the sugar content after reading the health statement, nothing that can be checked on the box addresses the sugar structure issue," the order specifies.

The judge did deny Reynolds injunctive relief because the suit alleges that pure fruit juice is never healthy because of the amount and structure of the sugar it contains, meaning Reynolds would not be misled again by statements about the "healthfulness of a 100% fruit juice product."

Steven Zalesin, counsel for Coca-Cola, declined to comment on the case Thursday. Counsel for

Reynolds could not be immediately reached for comment.

Reynolds is represented by Jack Fitzgerald, Paul Joseph, Melanie Persinger, Trevor Flynn and Caroline Emhardt of Fitzgerald Joseph LLP.

Coca-Cola is represented by Gary T. Lafayette and Brian H. Chun of Lafayette & Kumagai LLP and Steven A. Zalesin, Jane Metcalf and Dakotah M. Burns of Patterson Belknap Webb & Tyler LLP.

The case is Reynolds v. The Coca-Cola Co., case number 23-cv-01446, in the U.S. District Court for the Northern District of California.

--Editing by Peter Rozovsky.

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