



Portfolio Media, Inc. | 111 West 19th Street, 5th floor | New York, NY 10011 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Calif. Olive Oil Buyers Win Cert. In False Ad Row

By **Emily Field**

Law360, New York (July 15, 2016, 6:51 PM ET) -- A California federal judge on Friday granted class certification to a group of consumers who claim that they were misled by "Imported from Italy" labels on Filippo Berio olive oil, rejecting the company's arguments that the woman leading the class wasn't an adequate representative.

U.S. District Judge Yvonne Gonzalez Rogers certified a class of California consumers who bought Filippo Berio brand olive oil of any grade, except for an organic variety, between May 2010 and June 2015. The judge rejected Salov North America Corp.'s arguments that lead plaintiff Rohini Kumar isn't an adequate representative because her testimony shows that she wasn't misled by the "imported from Italy" label on the front of the bottle.

Kumar's testimony indicates that she read the back of the bottle to check the "best by" date, which is next to a disclaimer that the olive oils come from not only Italy, but Greece, Spain and Tunisia — therefore, **she must have known** that information, Salov argued.

But Kumar also testified that she didn't look at that information, according to the judge.

"The court cannot disregard this testimony, as Salov seems to suggest," the judge said.

Salov also argued that Kumar wasn't adequate because of a drunk driving conviction and because she is friends with one of her attorneys.

However, any suggestion of a conflict is undermined by the fact that Kumar's friend isn't a partner and is one of several different attorneys from two firms that are trying the case, the judge said.

Also, Kumar's felony record isn't for an offense that calls her honesty and integrity into question, and isn't relevant to the issues of the case, the judge said.

Salov also argued that the class couldn't be ascertained because class members would have to prove they bought a bottle of Filippo Berio olive oil and remember what they paid for it and whether or not they say they were fooled by the "Imported from Italy" label.

However, members can offer evidence they bought the olive oil through an affidavit on a claim form, the judge said.

In this case, the labels all had the same "Imported from Italy" wording during the class time period, the judge said.

"Our team is thrilled with this excellent and thorough decision," Hassan A. Zavareei of Tycko & Zavareei LLP, counsel for Kumar, told Law360 on Friday.

Kumar filed the proposed class action in May 2014, arguing that the front of the label of Salov's olive oil made claims that the product was imported from Italy, but small print on the back of the label said that some olives are grown and pressed in other countries before being shipped to Italy for blending and bottling.

In January, U.S. District Judge Yvonne Gonzalez Rogers allowed Kumar to drop her claims related to the product's purported "extra virgin" quality and shift the focus to its "Imported from Italy" labeling.

Kumar's suit also alleged that Salov's extra virgin olive oil failed to meet state or federal standards for the term "extra virgin," claiming that the company mixed the products with refined oil and packaged them in clear bottles that caused the oil to oxidize when exposed to sunlight.

A representative for Salvo didn't immediately respond to requests for comment on Friday.

Kumar is represented by Adam J. Gutride, Seth A. Safier, Marie McCrary and Kristen G. Simplicio of Gutride Safier LLP, and Hassan A. Zavareei, Jeffrey D. Kaliel and Andrew J. Silver of Tycko & Zavareei LLP.

Salov is represented by Sean A. Commons, Mark E. Haddad, Nitin Reddy and Jaya C. Gupta of Sidley Austin LLP.

The case is Rohini Kumar v. Salov North America Corp., case number 4:14-cv-02411, in the U.S. District Court for the Northern District of California.

--Editing by Stephen Berg.

All Content © 2003-2016, Portfolio Media, Inc.