

Soap Maker Wants Suit Over 'Natural' Claims Scrubbed

By **Shayna Posses**

Law360, New York (January 11, 2017, 3:26 PM EST) -- Beaumont Products Inc. urged a New York federal judge Tuesday to toss a proposed class action accusing the company of duping consumers into thinking its Clearly Natural Essentials soaps and other products are natural despite containing synthetic ingredients, contending that the claims have no merit.

The consumer products company blasted Silvio Ciancio's suit alleging that the company marketed a slew of items as "pure and natural" when they contain artificial and synthetic ingredients, arguing that Ciancio doesn't explain how a product labeled "glycerine soap" could be a natural product, nor does he allege that any ingredients the products contained weren't listed.

"Plaintiff does not point to any government standards with respect to the use of the term 'natural,'" the company said. "Plaintiff simply pleads his personal legal conclusion that the labeling is deficient."

Beaumont continued to say that flaws in Ciancio's logic merit the dismissal of his claims in their entirety.

For one, Ciancio's claim for injunctive relief can't stand because the consumer doesn't allege that his injuries are continuing or that they could even continue, Beaumont contended. After all, Ciancio alleges that he would buy the Clearly Natural Essentials products again if the ingredients were changed but never says he will keep buying the allegedly deceptive products as they are currently formulated, meaning he hasn't pled the likelihood of future harm, and the claim fails, the company said.

Other claims also fail for lack of standing, including allegations brought under New York's General Business Law on behalf of potential class members who didn't purchase the products in question in the state, since they aren't subject to the law's protections, Beaumont contended.

Similarly, the company said, Ciancio inappropriately invokes the consumer protection statutes of states where he doesn't live and in which he can't claim that he suffered any harm.

"Plaintiff alleges similar common law claims for breach of express warranty without having suffered any alleged harm in any jurisdiction except New York," Beaumont said. "Plaintiff's failure to allege that he suffered injury in any jurisdiction except New York with respect to such claims must result in their dismissal, because plaintiff lacks standing to raise them."

Ciancio's other allegations are equally lacking, Beaumont said, pointing out alleged problems like the fact that his negligent misrepresentation claim is barred by the economic-loss doctrine, and his unjust enrichment claim is duplicative of other counts.

Jason P. Sulzter, who represents the proposed class, told Law360 on Wednesday that he expects the crux of the case to survive, saying these sorts of cases are difficult to bump on a motion to dismiss, and the company doesn't offer novel arguments.

"I look at it as essentially a waste of time," he said.

Representatives for the company didn't immediately return request for comment Wednesday.

Ciancio filed suit in October, alleging that Beaumont marketed 20 products in the Clearly Natural Essentials line, including a tea tree glycerine soap and a glycerine body lotion, as "clearly natural" and "pure and natural" in order to appeal to health-conscious consumers.

Ciancio and other consumers paid a premium for the products based on these representations, but the claims are actually false and misleading, because the items contain a number of artificial and synthetic ingredients, including sodium citrate, sodium chloride and glycerine, the complaint alleged.

The proposed class is represented by Jason P. Sultzer, Joseph Lipari and Adam Gonnelli of the Sultzer Law Group PC.

Beaumont is represented by Michael Sullivan and Glen A. Sproviero of Ellenoff Grossman & Schole LLP.

The suit is Silvio Ciancio v. Beaumont Products Inc., suit number 7:16-cv-08124, in the U.S. District Court for the Southern District of New York.

--Editing by Alyssa Miller.